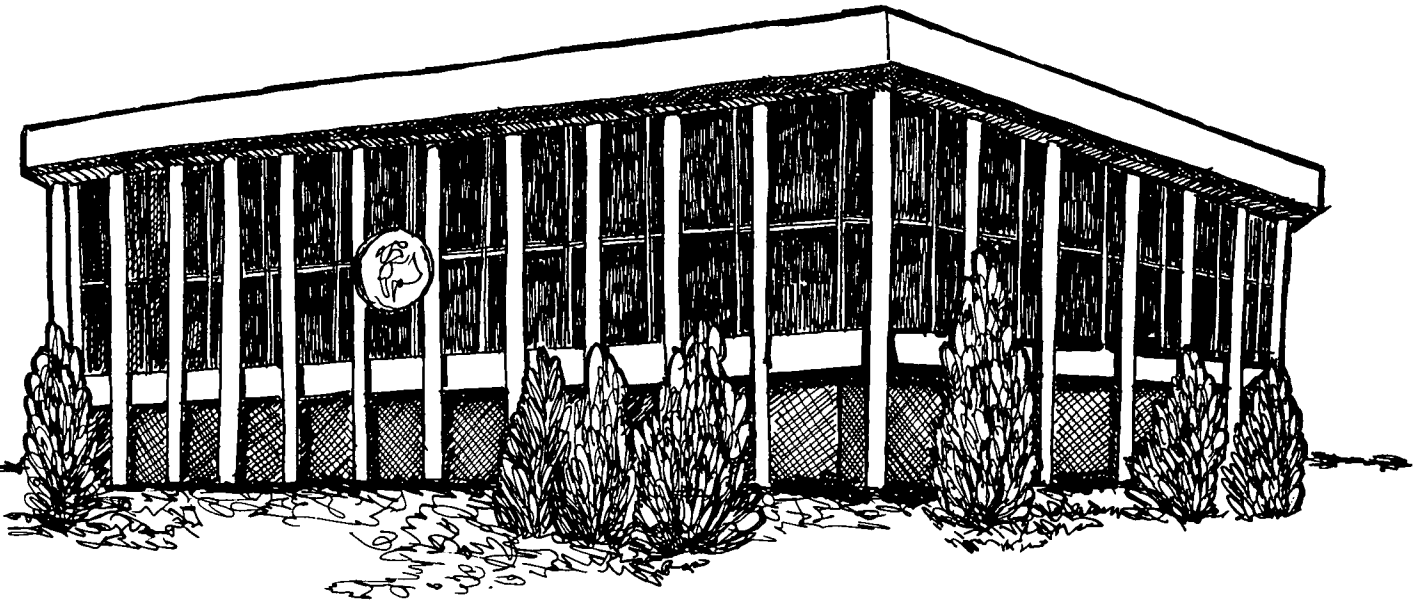


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ANNUAL REPORT
of the
MARYLAND
JUDICIARY
1976 - 1977

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PREFACE

Section 13-101(d)(9) of the Courts Article directs the State Court Administrator to "[m]ake and publish an annual report of the affairs of his office...." For twenty-one years, this report has been directed to the Chief Judge of the Court of Appeals.

However, as the report has developed over the years, it has become a good deal more than a report of the "affairs" of the Administrative Office of the Courts. Increasingly, it has become a broad-ranging discussion of the activities of the judicial branch of government. And increasingly, the report has been directed not only to the Chief Judge but also to the judiciary as a whole, those employed in the judicial branch, legislators, lawyers, and members of the public, all of whom have a vital interest in the functioning of the third branch of government.

This year's report takes formal notice of the informal developments of the past and is now entitled *Annual Report of the Maryland Judiciary*. Included in it is the 22nd. annual report of the Administrative Office, as well as materials discussing the activities of the judicial branch during Fiscal 1977 and some of its prospects and plans for the future.

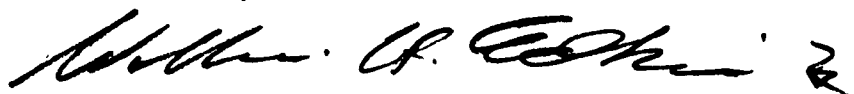
Emphasizing the recognition of the true role of this report is its new format.

Volume 1 of the report is designed for the general reader; it treats the funding, functions, workload, and programs of the court system in overview fashion, highlighted by graphs and charts. We propose wide distribution of this volume.

Volume 2 is a statistical abstract. Here the analyst or student who has need of detailed statistical information will find data supporting the material contained in Volume 1 as well as much other information pertaining to the court system, perhaps not of interest to the general reader but important to those who administer the court system or who wish to examine its functioning in depth.

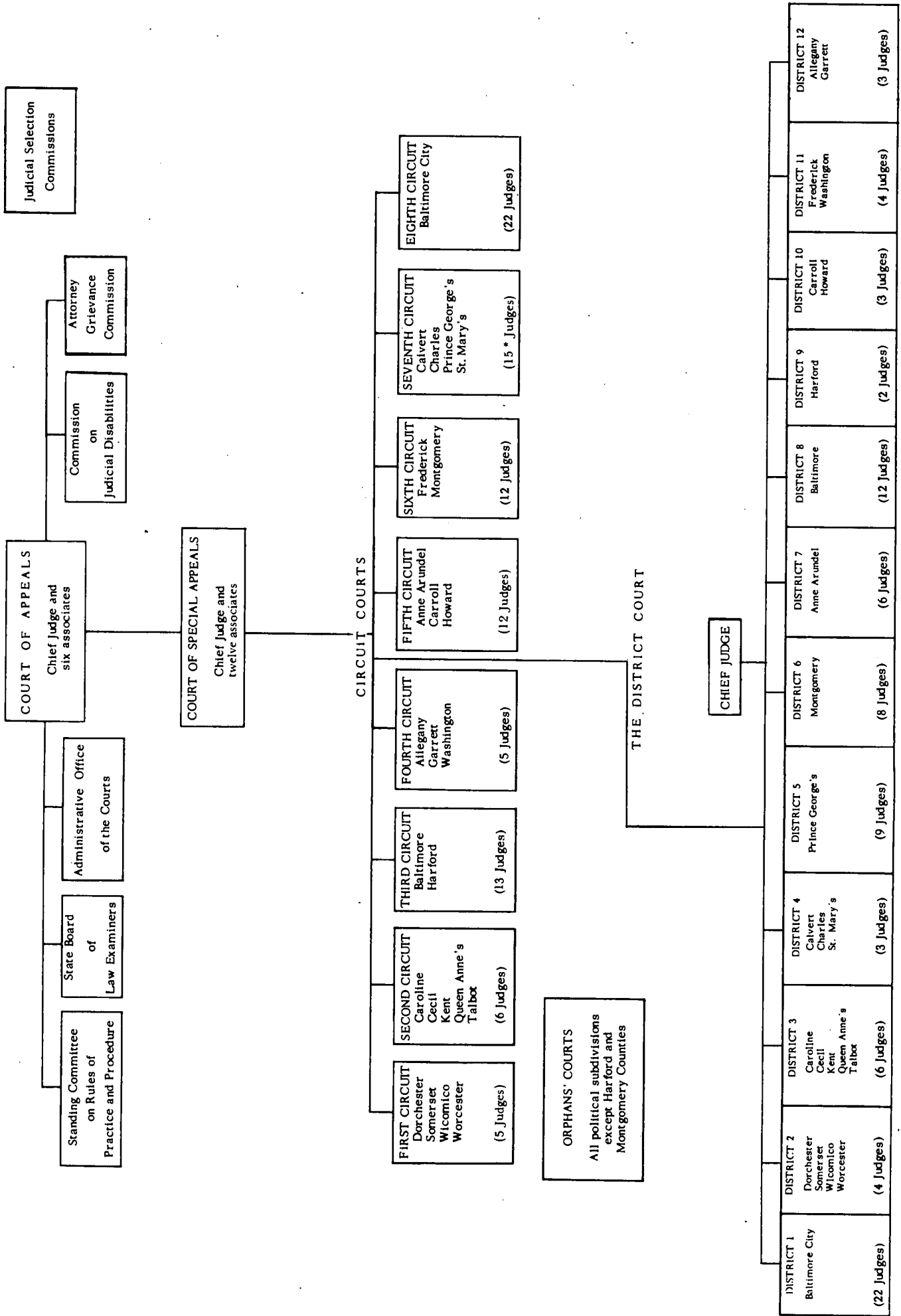
The second volume will be circulated within the judiciary and made available to others who request it.

We hope that this new approach to reporting on the judicial branch will prove helpful and informative to the citizens of Maryland as well as to those directly concerned in the activities of the court system.



William H. Adkins, II
State Court Administrator

THE MARYLAND JUDICIAL SYSTEM



MESSAGE FROM CHIEF JUDGE ROBERT C. MURPHY

The prime mission of any court system is to resolve disputes as justly, effectively, expeditiously, and inexpensively as feasible.

This principle is easy to state, but, as in the case of so many other general principles, it is not so easy to apply when one attempts to determine whether the Maryland court system is achieving these objectives. All things are relative, and in addition, such concepts as "justice," or even "speedy justice" are difficult to define, let alone quantify.

In the pages of the *Report* that follow, we discuss and describe the work of the Maryland courts, often in terms of statistics or charts showing filings, terminations, and similar numerical factors. These are valuable in that they afford a basis of comparison for activities during Fiscal 1977 and similar activities in prior years, and they also afford a basis for comparison with the handling of workload in other states. But the facts and figures are really only a beginning. From them we must extract conclusions as to what problems exist in the judicial branch and we must use those conclusions to plan solutions to the problems. We must then attempt to implement the solutions so as to enhance continuously the effectiveness of our justice system.

One of the things that the facts and figures tell us quite clearly is that the workload of the Maryland courts is continuing to grow. In our trial courts of general jurisdiction, for example, the average percentage of change in filings has been an increase of 6.23 percent annually since 1972 through Fiscal 1976. The rate of growth in Fiscal 1977, as compared to Fiscal 1976, is over 9 percent.

Of course, this rate of growth is not evenly distributed throughout the State, or within categories of cases. For example, the Law filings increased only slightly in Fiscal 1977, while Equity filings increased much more substantially and Criminal filings, following a long-term trend, increased by almost 10,000 cases. On the other hand, juvenile filings were down slightly as compared to Fiscal 1976.

In the District Court, workload increased at an annual rate of 10.80 percent during the period 1972-1976. The annual increase was especially noticeable in traffic cases. For the District Court, Fiscal 1977 appears to show us a slight change in trend. Although overall workload is up as compared to Fiscal 1976, the rate of increase is down and in the area of traffic cases, formerly that of greatest increase, there is an actual decrease of close to 5,000 cases as compared to Fiscal 1976.

In the two appellate courts, the data suggest a rather stable picture when Fiscal 1977 is compared with Fiscal 1976.

The figures pertaining to a single fiscal year do not necessarily portend a long-range trend, but both the figures and experience suggest we must expect some continued increase in workload.

Although again there are individual exceptions, in general the courts are coping reasonably well with this workload. In Fiscal 1977, at the circuit court level, terminations represented 94.02 percent of filings, only a slightly lower rate than that realized in Fiscal 1976. These figures illustrate one set of problems for the court system: how to maintain and if possible improve our rate of disposition of cases.

Adequate funding for the court system is one tool. Funding means the provision of judgeships, the provision of non-judicial personnel, the provision of equipment and

facilities needed to process cases. State funding of the judicial system has increased over the years. For example, the Fiscal 1976 expenditures were \$19,833,044 as contrasted with the Fiscal 1977 appropriation of \$21,254,600. It is obvious, however, that this increase of 6.8 percent does not match the increase in caseload, nor does it equal the 7 percent increase in general funds contained in the overall State Fiscal 1977 budget as contrasted with the Fiscal 1976 budget. Moreover, over the years, the judiciary budget has been less than 1 percent of the total State budget and just over 1 percent of the total general fund budget.

Operating within these fiscal constraints, it has been difficult to provide the necessary personnel and equipment to operate the courts effectively. Nevertheless, we can refer with appreciation to actions taken by the General Assembly at the 1977 session to help alleviate our judicial manpower shortages. An urgently-needed additional judgeship for the Court of Special Appeals was created, as were new circuit court judgeships for Howard and Carroll Counties, two of our rapidly-growing jurisdictions. Also, two new circuit court judgeships were created for Prince George's County (effective January 1, 1978) contingent upon the phasing out of juvenile masters in that County. And the 1976 General Assembly established an additional circuit court judgeship for Wicomico county, effective July 1, 1977.

As Chief Judge of the Court of Appeals, I have the constitutional authority to designate a judge of any court to sit in any other court throughout the State. With increasing frequency, I have exercised this authority in order to provide for unfilled judgeships, disqualification, extended illness, and very heavy caseloads. However, whenever a judge from County A is designated to sit in County B, the handling of judicial business in County A suffers to some degree. The ultimate burden is borne by the litigants in County A.

In 1977, the General Assembly passed legislation to implement a constitutional amendment ratified in November 1976, under which the Court of Appeals may now recall, for temporary service, certain former judges. We are thus now empowered to call upon a pool of highly qualified and experienced jurists who can be used for temporary service without disrupting the judicial business of any jurisdiction. While limited funding will somewhat inhibit our use of this tool during Fiscal 1978, and while some argue that the implementing legislation also restricts too narrowly the pool of judges upon which we can draw, this legislation materially enhances our ability to cope with growing caseloads.

Of course, there are other ways to address this problem besides the addition of new judgeships. In the Court of Special Appeals, for example, there is now a professional staff unit of experienced lawyers who review records, do research, and prepare memoranda in some of the more routine cases in that court, thereby allowing the judges to concentrate on the more complex matters. This innovation has been of real help to that overburdened court.

Also likely to provide future assistance to the Court of Special Appeals is 1977 legislation providing for a discretionary appeal process with respect to matters arising in the Inmate Grievance Commission.

I should add, however, that despite all our efforts to keep up with an ever-increasing flow of cases, it will still be necessary for us to request additional judgeships and additional non-

judicial personnel if the business of the courts is not to fall behind.

An adequate number of judges is, of course, essential to effective judicial operations. But it is also important that the judges be well-trained to perform their functions. Even the most capable trial lawyer has something to learn about performance on the bench, and even the most capable judge must be kept abreast of developments in the law and new techniques in the art of judging. To that end, as explained more fully in other portions of this *Report*, we have now in operation an excellent judicial education program, operated under the auspices of the Judicial Conference's Committee on Judicial Education and Training, and with the assistance of the Judicial Education Services unit of the Administrative Office of the Courts. This program offers special orientation and training for newly-appointed trial judges and extensive and on-going in-State training for all judges of every court, whether newly-appointed or veteran. In addition, a few judges each year are afforded the opportunity of attending out-of-State training sessions at such institutions as the National Judiciary College.

A court system does not operate through judges alone. Administrative and clerical personnel and systems are also required. We have attempted to provide the personnel at all levels of the court system, and are instituting programs to enhance their training. Programs now in the development stage would extend not only to State employees in the judicial system, but also to court personnel provided by the several subdivisions in the circuit courts, and to staffs of the offices of the Clerks of the circuit courts.

So far as systems are concerned, we are attempting to provide State-wide automated systems for the gathering of management information upon which present operating and future planning decisions must be based. And we are also moving to install or enhance case processing systems in some of the larger jurisdictions. The Information Systems and Reports and Records units in the Administrative Office of the Courts are working for continuing improvements in these areas.

And because systemic improvements should be accomplished in a comprehensive fashion, rather than piecemeal, the Administrative Office's planning unit is in the process of developing both long and short range plans, within the framework of which we will attempt to move forward to greater future effectiveness.

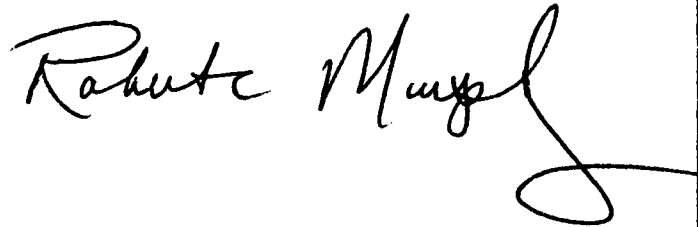
However, we cannot be satisfied with methods for the more effective use of judicial personnel or systems for the better processing of cases, such as the automated traffic adjudication system about to be instituted in Montgomery County as a pilot project. In the long run, we must consider structural and systemic change in our judicial system and improvements in our substantive laws and procedures. I have touched on some particular areas of concern here in the State of the Judiciary address I delivered to the General Assembly in January 1977, and which is printed within this *Report*.

I am bound to say that steps we have attempted to take in these directions have not met with great success. A proposal to consolidate the six courts of the Supreme Bench of Baltimore City failed in 1977, as did proposals to abolish the trial de novo in criminal cases, to phase-out the use of masters in juvenile cases State-wide, and to decriminalize non-support.

Despite what we consider to be temporary setbacks, we will not abandon efforts to improve the judicial system in Maryland. Improvements in the methods of judicial selection and retention took years to achieve, but they have now been achieved at all levels except the circuit court. We propose to

continue efforts to improve the process at this court level, as we propose to continue efforts to provide a more effective structure and organization for the court system as a whole, and to obtain better substantive and procedural laws with which that system must work. In these efforts, we will seek, as we must, the cooperation of the Executive and legislative branches, as well as the bar and the public.

I hope that the readers of this *Report* will gain some understanding both of what the court system has accomplished and what it has failed to accomplish in Fiscal 1977, and with that understanding will join with the judiciary in continuing to strive for a fully effective justice system.



Robert C. Murphy
Chief Judge
Court of Appeals of Maryland

JUDICIAL REVENUES AND EXPENDITURES

Funds to operate the Judicial Branch of government in Maryland are a mixture of State and local appropriations currently in excess of \$46,000,000 annually. The Judicial system is a four tier structure consisting of the Court of Appeals, the Court of Special Appeals, the Circuit Courts for the counties and the six courts comprising the Supreme Bench of Baltimore City, and the District Court of Maryland. Related agencies and units are comprised of the offices of the Clerks of the Circuit Courts, offices of the Clerks of the Court of Appeals and Court of Special Appeals, the Administrative Office of the Courts, Board of Law Examiners, Court of Appeals Standing Committee on Rules, Commission on Judicial Disabilities, The Clients' Security Trust Fund, and the Attorney Grievance Commission. There are 193 Judicial positions and approximately 2,250 non-judicial positions in the judicial system.

With the exception of Circuit Court judges' salaries and fringe benefits, and personnel in the offices of the elected clerks, virtually all other non-judicial personnel of the Circuit Courts and the employees of the Supreme Bench of Baltimore City are paid for by the counties and Baltimore City respectively. Fiscal year appropriations by the political subdivisions approximated \$12,000,000. Income generated by operation of these courts (excluding fines and forfeitures) approximated \$400,000 in this same period. Salaries paid and other expenses to operate the Clerks of the Circuit Courts of the counties and of the Supreme Bench of Baltimore City approximated \$11,600,000 in the last fiscal year. While most of these expenses are paid from the filing fees, court costs, and commissions received by these offices, any deficiency is paid by the State of Maryland from a fund maintained by the Comptroller of the State Treasury. To that extent, these offices are State-funded. Clerks' offices collected in excess of \$10,400,000 in Fiscal Year 1977. The balance of expenditures for the two appellate courts, the District Court, the Administrative Office of the Courts and other related agencies, were paid from appropriations at the State level and amounted to \$21,254,600 in 1976-1977.

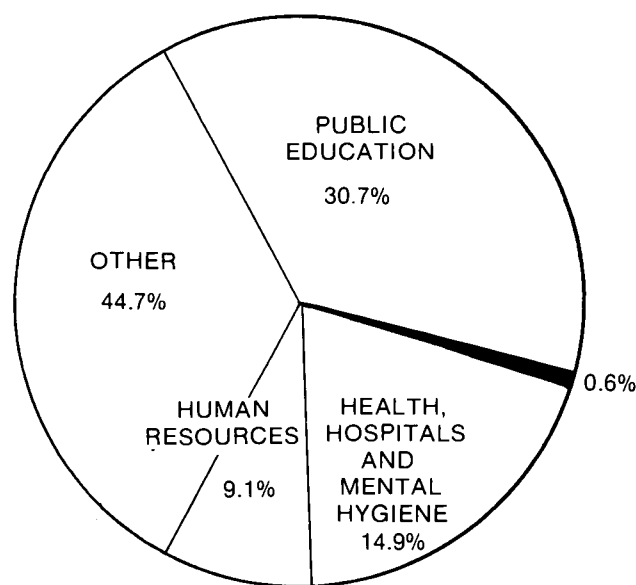
The State operates on a program budget concept and the State-funded judicial budget consists of seven programs. Two programs concern the operation of the Court of Appeals and the Court of Special Appeals and their respective offices. Another program provides funds to pay the salaries and fringe benefits of the Circuit Court judges. By far the largest program in the State-funded judicial budget is that of the District Court with an appropriation of \$14,544,405 in Fiscal 1977. Another program provides funds for the activities of the Maryland Judicial Conference, consisting of all appellate and trial court judges at the Circuit and District Court level including appropriations for continuing judicial education programs and conference committee activities. The sixth program provides funds to operate the Administrative Office of the Courts, the activities of which in the last fiscal year are described elsewhere in the report. Also included within this program are funds to operate the Clerk's Office of the Juvenile Court in Baltimore City and funds to operate the automated Criminal Case Scheduling System in the Supreme Bench of Baltimore City. Finally, the last program in the State-funded judicial budget provides funds to staff the operation of the State Board of Law Examiners, the Standing Committee on Rules of Practice and Procedure, the State Reporter, and the

Commission on Judicial Disabilities. Funds to support the operation of the Attorney Grievance Commission and The Clients' Security Trust Fund come from assessments against attorneys admitted and practicing law in the State of Maryland and therefore are not included in the State-funded judicial budget.

As can be seen from the illustration of the State "budget dollar", the State-funded judicial budget consumes only a tiny fraction of the total State budget, slightly less than six-tenths of one per cent. The budget for the entire State of Maryland for Fiscal 1978 is nearly four billion dollars, of which less than \$23,000,000 is ear-marked to fund the State portion of the Judicial Branch. In this connection, it should also be noted that revenue produced by the District Court and other State-funded court agencies continue to offset expenditures for the State-funded portion of the Judicial Branch.

The figures on the next page reflect the growth of the State-funded portion of the Judicial Budget for the last three fiscal years, averaging approximately seven per cent each year. Revenues are also reflected to show they have kept pace with expenditures.

**JUDICIAL EXPENDITURES
AS A PERCENTAGE OF TOTAL
STATE EXPENDITURES***
1977



*State Funded Portion of the Judicial Budget.

The average growth of slightly in excess of seven per cent over the last three fiscal years is due to many factors including but not limited to, normal increases in operating expenses, incremental pay increases, cost of living pay adjustments, additional personnel, and legislation creating additional judgeships and transferring some 25 positions from an executive branch agency to the judicial branch. Significant changes of this nature have occurred in the Circuit Court program by reason of the creation of additional judgeships, in the District Court program to meet additional personnel needs

and provide funds for across the board pay increases, in the Administrative Offices program from the transfer of 25 positions from the Juvenile Services Administration to this program pursuant to legislation enacted in 1976, and in the court related agencies program due in large part to the transfer of funds for the activities of the staff to the Rules Committee and the State Board of Law Examiners from the Administrative Offices program to produce a more rational budget structure and facilitate monitoring spending and performance of these activities.

BUDGET FIGURES

PROGRAM	1975-76	1976-77	1977-78
Court of Appeals	\$ 679,369	\$ 680,158	\$ 723,049
Court of Special Appeals	1,033,637	1,117,586	1,178,925
Circuit Courts & Supreme Bench	3,167,573	3,396,049	3,587,984
District Court	13,952,236	14,614,705	15,557,342
Maryland Judicial Conference	30,400	29,225	36,750
Administrative Office of the Courts	820,697	1,290,640	1,389,659
Court Related Agencies	127,530	126,237	371,642
TOTAL	\$19,811,442	\$21,254,600	\$22,845,351

REVENUE FIGURES

	ACTUAL 1975-76	ACTUAL 1976-77	ESTIMATED 1977-78
Court of Appeals	\$ 14,876	\$ 23,051	\$ 25,000
Court of Special Appeals	19,052	29,375	34,500
State Board of Law Examiners	107,555	117,600	164,500
District Court	20,391,499*	22,462,374*	24,500,000*
TOTAL	\$20,532,982*	\$22,632,400	\$24,724,000

*In 1975-76, the District Court expended \$795,070 and in 1976-77, \$930,748 in payments to various sheriffs for serving process. This sum was unappropriated and charged directly against revenues. A similar procedure will be followed in 1977-78. The overall State Budget for 1977-78 is \$3,888,996,817.

THE MARYLAND COURTS

THE COURT OF APPEALS

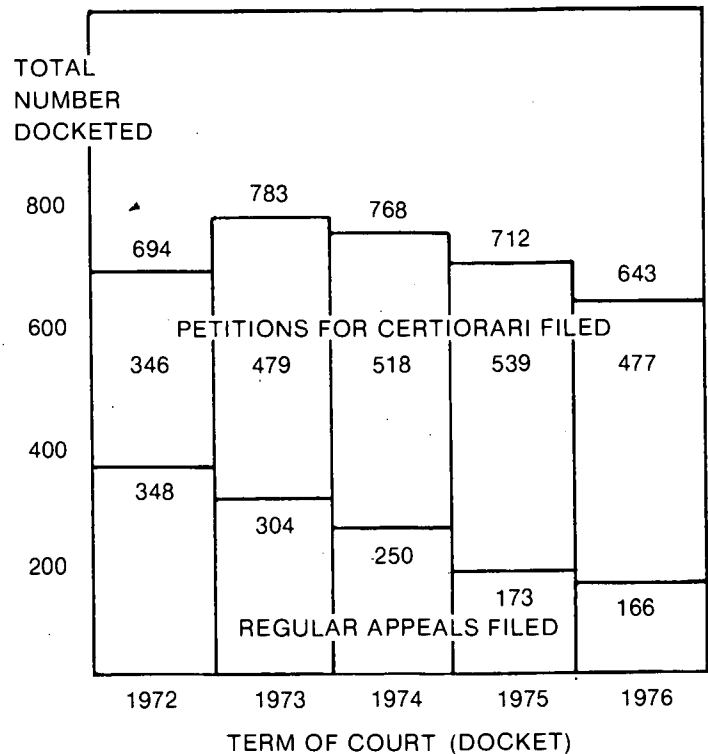
The Court of Appeals of Maryland is the highest tribunal in the State of Maryland and was created by the Constitution of 1776. In the early years of its existence, the Court met at various locations within the State, but since 1851 has sat only in Annapolis.

The Court is presently composed of seven members, one from each of the first five Appellate Judicial Circuits and two from the Sixth Appellate Judicial Circuit (Baltimore City). Members of the Court, after initial appointment by the Governor, and confirmation by the Senate, are elected to a ten year term of office. By a constitutional amendment (Chapter 551, Acts of 1975) ratified in 1976, judges of the Court of Appeals run for office on their record, without opposition. If the voters reject the retention in office of a judge, or if the vote is tied, that office becomes vacant and must be filled by a new appointment. The Chief Judge of the Court of Appeals is designated by the Governor and is the constitutional administrative head of the Maryland judicial system.

By legislation effective January 1, 1975, the Court of Appeals hears cases almost exclusively by way of certiorari. As a result, its formerly excessive caseload has been reduced to a manageable level so as to allow it to devote its efforts to the most important and far-reaching decisions. At present the Court may review a case decided by the Court of Special Appeals or may bring up for review cases filed in that court before they are decided there. The Court of Appeals may also review certain decisions rendered at the circuit court level if those courts have acted in an appellate capacity with respect to an appeal from the District Court. The Court is empowered to adopt rules of judicial administration, practice and procedure, which have the force of law. It also admits persons to the practice of law, reviews recommendations of the State Board of Law Examiners and conducts disciplinary proceedings involving members of the bar.

During the fiscal year July 1, 1976, through June 30, 1977, the Court of Appeals had 189 appeals on its regular dockets for consideration. Fourteen of those appeals were carried over from the 1975 Term docket while 166 were filed on the 1976 docket and 9 were advanced from the 1977 docket. At the close of the year the Court had disposed of 176 of those cases, actually deciding 161, with 15 being dismissed or disposed of in

**COURT OF APPEALS
REGULAR APPEALS AND
PETITIONS FOR CERTIORARI FILED**



another manner. A total of 151 majority opinions were filed by the Court in the dispatch of its duties, 137 of which were reported. After docketing, an appeal averaged 2.6 months until argument and 1.6 months until decision. These figures increased slightly over 1975-76 when 2.2 months and 1.1 months were noted. The Court also considered 480 petitions for the issuance of Writs of Certiorari and granted 114. It admitted 744 persons to the practice of law and conducted 16 disciplinary proceedings. In addition, the court devoted a great deal of time to its rule-making functions, including a complete and comprehensive revision of the rules pertaining to criminal cases.

THE COURT OF SPECIAL APPEALS

The Court of Special Appeals is Maryland's intermediate appellate court and was created in 1966 as the result of an increasing overwhelming caseload in the Court of Appeals which had caused that court to develop a substantial backlog.

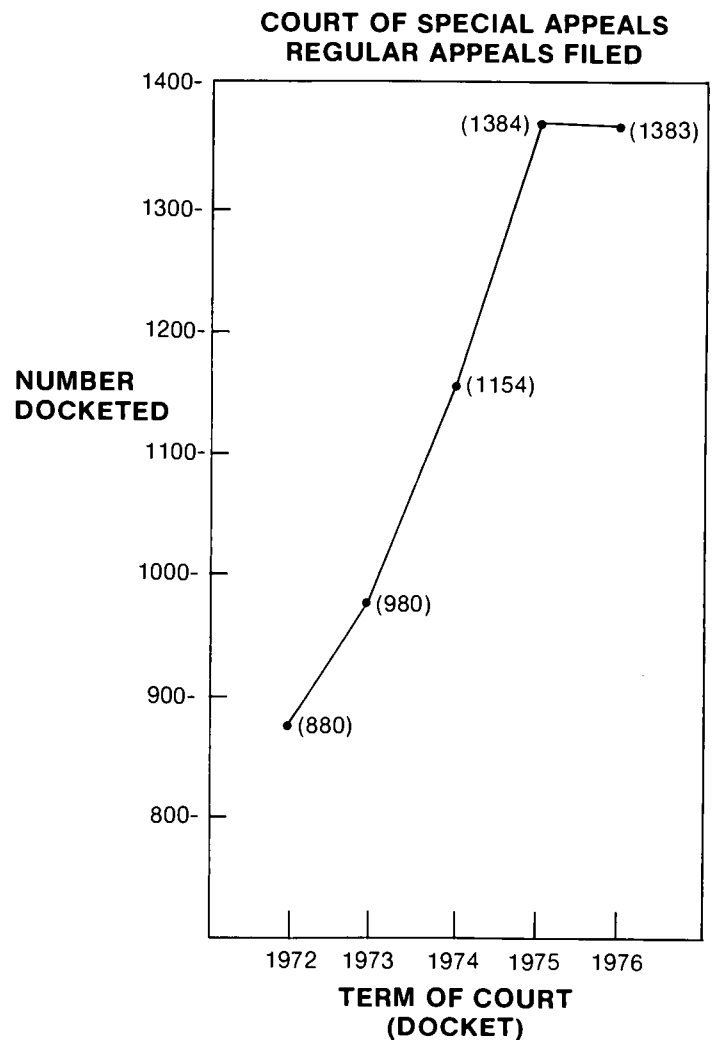
The Court of Special Appeals sits in Annapolis and, although it was originally composed of five judges, now consists of 13 members. One member of the Court is elected from each of the first five Appellate Judicial Circuits while two

members are elected from the Sixth Appellate Judicial Circuit. The remaining six judges are elected from the State-at-large. Members of the Court of Special Appeals are initially appointed by the Governor, confirmed by the Senate, and thereafter run on their records, without formal opposition, and are elected to a ten year term of office in the same manner as are members of the Court of Appeals. The chief judge of the Court is designated by the Governor.

The Court of Special Appeals, except as otherwise provided by law, has exclusive initial appellate jurisdiction over any reviewable judgment, decree, order or other action of a circuit court and generally hears cases appealed as of right from the circuit courts. Judges of the Court are empowered to sit in panels of three. A hearing or rehearing before the Court en banc may be ordered in any case by a majority of the incumbent judges of the Court. The Court also considers applications for leave to appeal in such areas as post conviction, habeas corpus matters involving denial of or excessive bail, and inmate grievances.

During the fiscal year July 1, 1976, through June 30, 1977, the Court of Special Appeals had 1620 regular appeals before it for consideration. Of these, 1383 were filed on the 1976 Term docket. An additional 237 were filed on the 1975 Term docket and heard during the previous year, but were not disposed of by way of an opinion being filed within that year due to the constraints of time. At the close of the 1976-77 year all but 153 appeals were disposed of, with that number being argued before the Court but not concluded by opinion. Of the 1467 dispositions, the Court actually considered and decided 995 with the balance being dismissed prior to argument (363) or transferred to the Court of Appeals (109) for consideration by that tribunal. After docketing, an appeal averaged only 4.6 months until argument and only an additional 1.1 months until decision, an outstanding achievement considering the high volume caseload of the Court of Special Appeals. These time spans varied only slightly from 1975-76 when 4.2 months to argument and 1.2 months to decision were recorded.

The Court filed a total of 989 opinions in disposing of its caseload, 302 of which were reported. It also considered 182 applications for leave to appeal, 20 of which it granted.



THE CIRCUIT COURTS

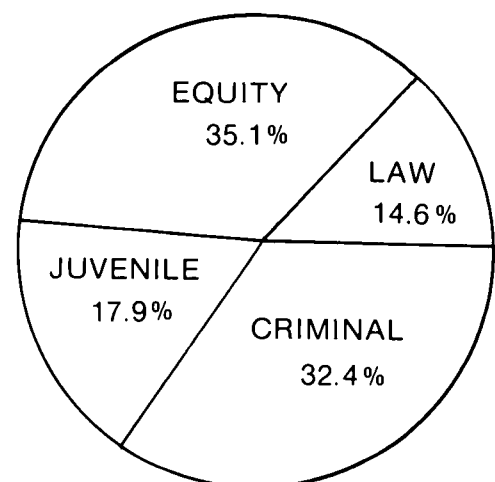
The circuit courts are the highest common-law and equity courts of record exercising original jurisdiction within the state. Each has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county, and all the additional powers and jurisdiction conferred by the Constitution and by law, except where by law jurisdiction has been limited or conferred exclusively upon another tribunal. (§ 1-501, Courts Article)

In each county of the State, there is a circuit court which is a trial court of general jurisdiction. Its jurisdiction is very broad, but generally it handles the major civil cases and the more serious criminal matters. The circuit courts may also decide appeals from the District Court and from certain administrative agencies.

These courts are grouped into seven geographical circuits; each containing two or more counties. The Eighth Judicial Circuit consists of Baltimore City. Judges of that circuit are appointed to the Supreme Bench of Baltimore City. The Supreme Bench is composed of six courts; separately, each of the courts exercises varying degrees of overlapping or separate jurisdiction in relation to the others. Collectively, however, these courts act as one county circuit court.

Presently, there are 88 circuit court judges (22 of them on the Supreme Bench), with at least one judge for each county.

**DISTRIBUTION OF CASES FILED
JULY 1, 1976 - JUNE 30, 1977**



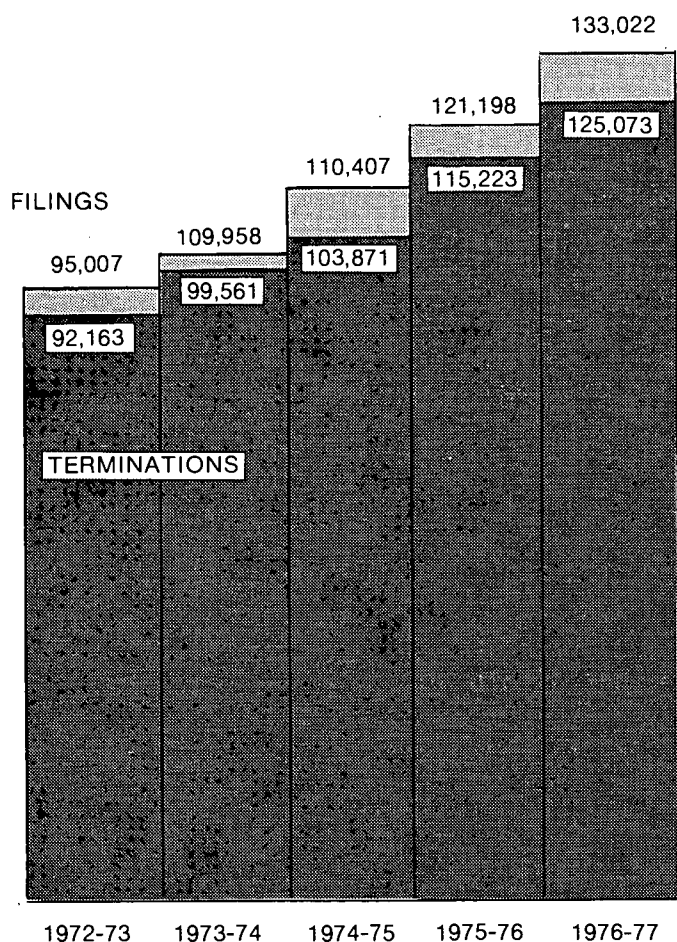
Two additional judgeships in Prince George's County will become effective January 1, 1978. Unlike the other three levels of courts in Maryland, there is no chief judge for the circuit courts; instead, eight circuit administrative judges appointed by the Chief Judge of the Court of Appeals perform administrative duties in each of their respective circuits, with the aid of county administrative judges.

Each circuit judge is initially appointed to office by the Governor and must stand for election at the next general election following by at least one year the vacancy the judge was appointed to fill. The judge may be formally opposed by one or more qualified members of the bar, with the successful candidate being elected to a fifteen-year term of office.

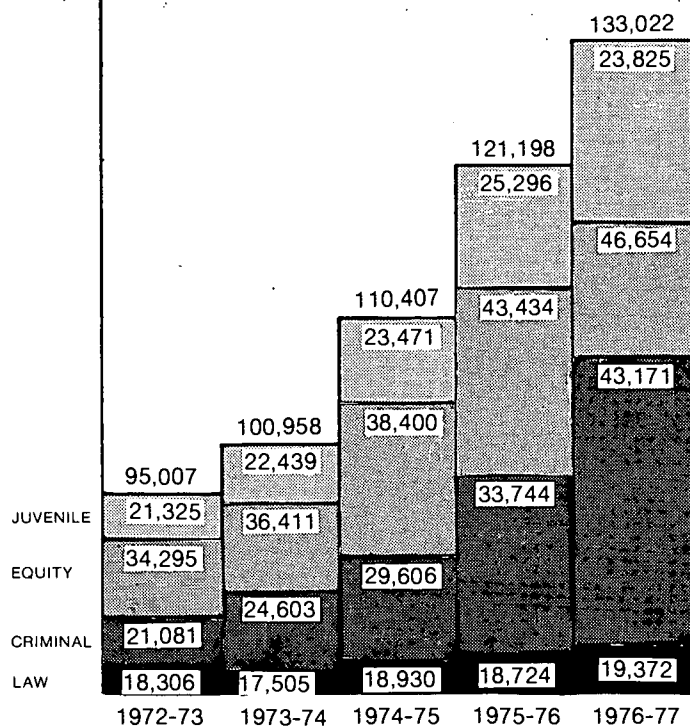
Total law, equity, juvenile and criminal case filings numbered 133,022 for fiscal year 1976-77. Not included are juvenile causes heard at the District Court level in Montgomery County where that Court exercises jurisdiction in juvenile matters. Total filings increased by 9.7 percent over those recorded for 1975-76. Equity matters accounted for 35.1 percent of total filings, followed by criminal proceedings with 32.4 percent, juvenile causes with 17.9 percent and law actions with 14.6 percent. Equity, criminal and law cases all reflected increases over those filed in 1975-76, of 7.4, 27.9 and 3.5 percents, respectively. Only the juvenile area registered a decline in filings of 5.8 percent.

Terminations, while not equaling filings, did number 125,073, a gain of 8.5 percent over the 115,223 tallied in 1975-

INCREASE IN FILINGS AND TERMINATIONS OF THE CIRCUIT COURTS



INCREASE IN CIRCUIT COURT FILINGS



76. In the law and juvenile areas, terminations exceeded filings, but in the criminal and equity categories the reverse situation existed.

The ratio of cases appealed to the circuit courts from the District Court continues to be very small, only 0.5 percent for the last two years. However, the demand for jury trials continues to increase by 18.1 percent over last year as 5,330 jury trials were prayed in 1975-76 and 6,297 were prayed in 1976-77.

The circuit courts conducted 2,539 law trials, 9,981 criminal trials, and held hearings in 14,408 equity matters during fiscal 1976-77. Corresponding figures for 1975-76 were 3,633, 17,179 and 14,153. Jury trials were held in 985 law cases and 2,076 criminal proceedings in 1976-77 compared to 1,206 and 1,970 for 1975-76. Baltimore City accounted for 446 law trials and 4417 criminal trials in 1976-77 and 1200 and 8992, respectively, in 1975-76. The apparently drastic drop in statewide criminal trial activity for 1976-77 is actually due to a change made in the automated data system as to the manner of defining a "criminal trial" to include only those cases where testimony is actually taken from one or more sworn witnesses. Formerly any plea accepted in open court was considered to be a trial. Therefore, the best measure of criminal caseload activity for 1976-77 should be measured in terms of dispositions rather than number of trials.

THE DISTRICT COURT

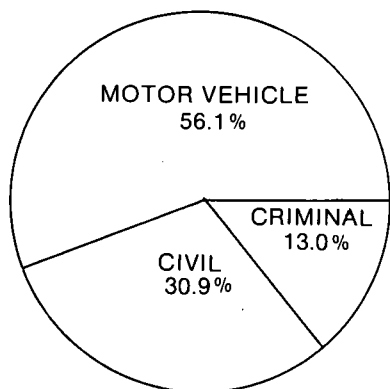
The District Court of Maryland was created as the result of the ratification in 1970 of a constitutional amendment of 1969. Initial implementing legislation for the Court was contained in Chapter 528 of the Laws of 1970 and was supplemented by Chapter 423 of the Laws of 1971.

The District Court began operating on July 5, 1971, and replaced an existing miscellaneous system of trial magistrates, people's and municipal courts. It is a court of record, is entirely state-funded and has state-wide jurisdiction. District Court judges are appointed by the Governor to ten-year terms, subject to Senate confirmation. They do not stand election. The first Chief Judge of the Court was designated by the Governor, but all subsequent Chief Judges are subject to appointment by the Chief Judge of the Court of Appeals. The District Court is divided into 12 geographical districts, each containing one or more political sub-divisions, with at least one judge in each sub-division. Presently, there are 83 judges on the Court, including the Chief Judge. The Chief Judge is the administrative head of the Court and appoints administrative judges for each of the twelve districts, subject to the approval of the Chief Judge of the Court of Appeals. A Chief Clerk of the Court is appointed by the Chief Judge. Administrative Clerks for each district are also appointed as are commissioners who perform such duties as issuing arrest warrants and setting bail or collateral.

The District Court has jurisdiction in both the criminal (including motor vehicle cases) and civil areas. It has virtually no equity jurisdiction and has jurisdiction over juvenile causes only in Montgomery County. The exclusive jurisdiction of the District Court generally includes all landlord/tenant cases; replevin actions; motor vehicle violations; criminal cases if the penalty is less than three years imprisonment or does not exceed a fine of \$2,500, or both; and civil cases involving amounts not exceeding \$2,500. It has concurrent jurisdiction with the circuit courts in civil cases from \$2,501 to not exceeding \$5,000; and concurrent jurisdiction in misdemeanors and certain enumerated felonies if the penalty

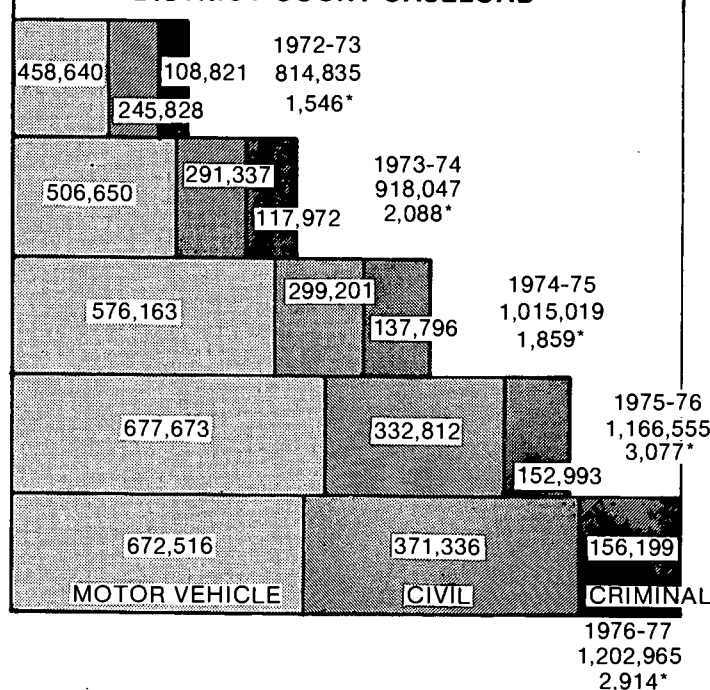
DISTRIBUTION OF CASES FILED*

July 1, 1976 - June 30, 1977



*THE 2914 JUVENILE CAUSES PROCESSED AT THE DISTRICT COURT LEVEL IN MONTGOMERY COUNTY ARE NOT INCLUDED IN THIS CHART

INCREASE IN DISTRICT COURT CASELOAD



*JUVENILE CAUSES PROCESSED AT THE DISTRICT COURT LEVEL IN MONTGOMERY COUNTY ARE INCLUDED IN THIS CHART.

is three years or more. Since there are no juries provided in the District Court, a person entitled to and electing a jury must proceed to the circuit court.

The caseload of the District Court continues to increase as 672,516 motor vehicle, 156,199 criminal and 371,336 civil cases were processed from July 1, 1976, to June 30, 1977, a total of 1,200,051 cases. Not included in the latter figure are 2914 juvenile filings in Montgomery County. Motor vehicle cases did decrease by 0.8 percent over the previous year, but criminal reflected a 2.1 percent increase and civil a 11.6 percent increase. Motor vehicle cases disposed of by trial numbered 213,481 (31.7 percent of motor vehicle cases) with Baltimore City accounting for the largest number, 53,935, followed by Baltimore County with 49,701.

There were 111,673 persons charged with 156,199 criminal acts in the District Court during the year. The number of defendants held for action by the grand jury numbered 10,573 while 6,297 defendants elected a jury trial at the circuit court level. Baltimore City recorded the highest figures of 47,362 defendants and 69,330 charges. Prince George's County noted 13,939 defendants and 17,846 charges while Baltimore County registered 10,797 defendants and 16,957 charges.

Landlord and tenant disputes accounted for 261,808 cases or 70.5 percent of the civil workload which was nearly the same percentage as the previous year (70.4). There were 161,265 civil cases filed in Baltimore City of which 128,869 (79.9 percent) were landlord and tenant matters. Prince George's County docketed more civil cases than any other county, 85,944, followed by Baltimore County with 47,853. Statewide, 34,125 civil matters were contested with 12,516 of these occurring in Baltimore City.

JUDICIAL ADMINISTRATION

ADMINISTRATIVE OFFICE OF THE COURTS

The Administrative Office of the Courts was established by the General Assembly in 1955. It is headed by the State Court Administrator, who is appointed by and serves at the pleasure of the Chief Judge of the Court of Appeals, as provided by §13-101 of the Courts Article.

Article IV, §18A of the Maryland Constitution makes the Chief Judge of the Court of Appeals "the administrative head of the judicial system of the State." The basic function of the Administrative Office is to provide the Chief Judge with advice, information, facilities and staff to assist him in carrying out his administrative duties as head of the judicial branch of government, and to implement court administration policies established by the Chief Judge, the Court of Appeals, and the General Assembly.

In general, the State Court Administrator, "under the supervision and direction of the Chief Judge of the Court of Appeals" is required to:

1. Gather statistical and other data regarding the business of the courts and keep the Chief Judge informed as to the transaction of that business.
2. Make recommendations to the Chief Judge regarding the need for assignment of judges among the several courts of the State, and assist the Chief Judge in making these assignments.
3. Prepare and submit the State judiciary budget and supervise its administration.
4. Submit to the Chief Judge recommendations for the improvements of the judicial system.

The State Court Administrator is also empowered to promulgate court costs schedules for the appellate courts, the circuit courts for the counties, and the courts of the Supreme Bench of Baltimore City, subject to the approval of the Board of Public Works.

In addition to his other duties, the State Court Administrator serves as Executive Secretary of the Maryland Judicial Conference, Secretary of the Judicial Ethics Committee, and Secretary of each of the nine Judicial Nominating Commissions. He is a representative of the judiciary on the Governor's Commission on Law Enforcement and the Administration of Justice.

The major activities of the Administrative Office and its several units are discussed in some detail in subsequent portions of this Report. Nevertheless, it may be appropriate to touch on a few of them here.

PLANNING

For years, court systems operated mainly on a reactive basis. Crises developed here and there, and efforts were made to put out the fires, but while this was being done, unexpected blazes often erupted elsewhere.

We have now come to realize that this approach is not an effective way to operate a system. Given the limited resources allocated to the court system, efforts must be made to provide for careful and comprehensive allocation of those resources, both of people and of money. In order to make a wise allocation, it is necessary to study the entire system, try to identify the existing and potential problem areas, develop

feasible solutions for the problems, devise strategies for the implementation of those solutions, and then implement them. All these activities except the actual implementation are part of the planning process.

No plan is graven in stone; the planning process must include the flexibility to make appropriate changes as conditions change or as better solutions for problems are discovered. Nevertheless, the plan at any given moment of time provides a framework within which rules may be drafted, legislation proposed, administrative actions taken, and budgets submitted.

Planning in any court system is difficult because so much that occurs in a court system cannot be controlled by the system. Legislatures may create new causes of action, adding to court workload. The effectiveness of police work at one end of the judicial system and over-crowding in penal institutions at the other, may have tremendous impact on the courts. Conditions of the economy, or a major traffic law enforcement program, all may have their effects. Yet the court system has no control over any of these events; it simply must attempt to cope with their effects.

There are special problems with court planning in Maryland, because of the substantial areas of funding and personnel provided outside the State system (that is, mainly by the political subdivisions) and thus not subject to either increase or decrease through the State budgetary process.

These obstacles, however, do not mean that planning should not be attempted, but simply indicate that planning is not a simple process. For that reason, the development of the process itself is very important. During Fiscal 1977, the planning unit in the Administrative Office has concentrated on this task and has received valuable guidance from the National Center for State Courts, since Maryland is one of four "model states" designated by the National Center with respect to development of judicial planning procedures.

In Fiscal 1977 the planning process development was substantially completed and an interim judicial plan was issued. The program should be in full and effective operation in Fiscal 1978, providing a tool for resource allocation throughout the court system at all court levels.

INFORMATION SYSTEMS

Effective management depends in large part upon the availability of accurate information about the activities to be managed. Availability of good information is also critical to the planning process.

The Administrative Office's Information Systems unit has expended much effort in Fiscal 1977 in improving and making more accurate its basic statistical gathering capabilities. In addition, the Assistant Administrator for Reports and Records, and his staff, have produced a number of research and statistical studies valuable from the general management point of view and helpful in connection with budget and legislative proposals.

The Information Systems unit is also charged with implementing various automated case processing systems. Within the fiscal year, the Baltimore City criminal system was

fully converted to operation through the Annapolis Data Center and its effectiveness was enhanced. Activities also went forward on the installation of an automated system in Anne Arundel County, although implementation of this system has been plagued by delays.

The unit has also worked hard and closely with the District Court in the development of an automated traffic adjudication system. Here again, there have been a series of unfortunate delays, but it is anticipated that this system will be operating in Montgomery County in the fall of 1977.

On the more positive side, during Fiscal 1977 great progress was made in developing an automated processing system for the Juvenile Court in Baltimore City.

Despite some of the problems mentioned, the achievements of the Information Systems unit have been excellent, in the face of difficulties produced by inability to acquire experienced programmer analysts, rapid staff expansion, and some difficulties with hardware.

EDUCATION

In a judicial system, it is of critical importance that judges be exposed to continuing educational activities. The transition from lawyer to judge requires special orientation for the new jurist, while the experienced judge must be kept current on the many rapidly-developing areas of law. The Judicial Education Services unit of the Administrative Office, under the direction of the Judicial Conference's Committee on Judicial Education and Training, has operated throughout Fiscal 1977 high-level in-State orientation programs for new judges and equally excellent more advanced programs for all judges. The use of Maryland lawyers and judges as instructors for many of these courses reduces their costs while keeping quality up and emphasizing Maryland law.

However, training judges is not enough. The supporting personnel of a court system also require pre-service and in-service training. During Fiscal 1977, an assistant director was added to the unit and is now studying needs for training by non-judicial personnel throughout the judicial branch. Implementation of comprehensive training programs should begin in Fiscal 1978.

This projected training activity will supplement and complement pre-existing training afforded personnel of the Clerks of Court offices, some personnel of the District Court, and personnel within the Administrative Office. In the last category, it is a pleasure to note that five of the professional and supervisory staff members in the Administrative Office and three of the circuit administrators funded through the Administrative Office attended one or more workshop sessions of the Institute for Court Management during the fiscal year.

JUVENILE COURT

As a general rule, the Administrative Office is not directly involved in trial court administration. That is usually best left to those in the field. However, as of July 1, 1976, the legislature

transferred the personnel of the Juvenile Court Clerk's office in Baltimore City to the Administrative Office. While we wisely left the day-to-day administration of the Juvenile Court Clerk's office to the judge presiding in that court and to non-judicial personnel on the scene, the Administrative Office of the Courts during Fiscal 1977 was able to lend support in two important areas.

First, the Information Systems unit took the lead in developing an automated case processing system for the Juvenile Court. This will become fully operational in Fiscal 1978.

Second, with the cooperation of the State Department of Personnel, a substantial reorganization of the Clerk's office was effected, including reclassification of many of its members. Since the Department of Personnel determined that some of these employees had been under classified by two to five grades, this reorganization should not only enhance the efficiency of the office, but also improve the morale of its employees.

ADMINISTRATIVE SERVICES

The Fiscal 1977 budget contains 57 authorized positions for the Administrative Office of the Courts, as opposed to 31 in Fiscal 1976. The bulk of this particular increase was produced by the transfer of the Juvenile Court Clerk's office personnel, noted above. However, Administrative Office internal staff also increased through addition of federally-funded positions and by addition of contractual personnel, particularly within the Information Systems unit. These changes, larger budgetary appropriations, and additional Federal grants, have caused increasing burdens on the Judicial Administrative Services unit.

During Fiscal 1977, the unit's bookkeeping system was reorganized to provide better control for the Federal grants and physical inventories of equipment were put in proper shape. In addition, thanks in part to the STARS system now used in the Comptroller's office, time for processing transmittals was reduced. Further improvement in internal bookkeeping procedures is expected during Fiscal 1978.

With the help of a summer intern, the Administrative Services unit has also developed better procedures for monitoring budget expenditures and thereby identifying at an early stage potential problem areas.

ANNUAL REPORT

This general account of the work of the Administrative Office would not be complete without some reference to the changes made in the philosophy and format of this *Report*. These are discussed in more detail in the preface, and are the result of the efforts of many people. However, the Assistant Administrator for Reports and Records and his staff have spearheaded the effort, and have produced what we believe is a more valuable and meaningful presentation of the work of the judicial branch of government. Their hard work has also produced this *Report* in a more timely fashion than has been the case in the past.


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graph TD
    CJ[CHIEF JUDGE  
COURT OF APPEALS] --> BLEX[BOARD OF LAW EXAMINERS  
CHAIRMAN]
    CJ --> SCA[STATE COURT ADMINISTRATOR  
SECRETARY]
    CJ --> SCC[STANDING COMMITTEE ON RULES  
OF PRACTICE AND PROCEDURE  
CHAIRMAN]
    CJ --> AGC[ATTORNEY'S GRIEVANCE  
COMMISSION  
CHAIRMAN]
    CJ --> BARC[BAR COUNSEL]
    BLEX --> SLE[SECRETARY, BOARD OF LAW EXAMINERS  
CLERK  
SECRETARY]
    SCA --> AAR[ASSISTANT ADMINISTRATOR, REPORTS AND RECORDS  
RESEARCH ANALYST  
SECRETARY]
    SCA --> DSCA[DEPUTY STATE COURT ADMINISTRATOR  
SECRETARY]
    AAR --> RRC[REPORTER, RULES COMMITTEE  
ASSISTANT REPORTER  
SECRETARY]
    DSCA --> JPS[JUDICIAL PLANNING SERVICES  
DIRECTOR  
SECRETARY  
ASSISTANT DIRECTOR  
SECRETARY]
    DSCA --> JES[JUDICIAL EDUCATION SERVICES  
DIRECTOR  
ASSISTANT DIRECTOR  
SECRETARY]
    DSCA --> JAS[JUDICIAL ADMINISTRATIVE SERVICES  
DIRECTOR  
FISCAL ASSOCIATE  
PERSONNEL ASSOCIATE  
OFFICE ASSISTANT  
SERVICE WORKER  
OFFICE CLERK I]
    DSCA --> JIS[JUDICIAL INFORMATION SYSTEMS  
DIRECTOR  
DEPUTY DIRECTOR  
SECRETARY]
    JPS --> CA[CIRCUIT ADMINISTRATORS  
FIRST CIRCUIT  
SECOND CIRCUIT  
FOURTH CIRCUIT  
FIFTH CIRCUIT]
    JPS --> BJC[BALTIMORE CITY JUVENILE COURT  
ADMINISTRATOR  
DEPUTY]
    JIS --> CC[CIRCUIT COURT  
PROGRAMMER ANALYSTS]
    JIS --> DC[DISTRICT COURT  
PROGRAMMER ANALYSTS]
  
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The organizational chart for the Maryland Judicial Branch is structured as follows:

- CHIEF JUDGE
COURT OF APPEALS**
 - BOARD OF LAW EXAMINERS
CHAIRMAN**
 - SECRETARY, BOARD OF LAW EXAMINERS
CLERK
SECRETARY**
 - STATE COURT ADMINISTRATOR
SECRETARY**
 - ASSISTANT ADMINISTRATOR, REPORTS AND RECORDS
RESEARCH ANALYST
SECRETARY**
 - REPORTER, RULES COMMITTEE
ASSISTANT REPORTER
SECRETARY**
 - DEPUTY STATE COURT ADMINISTRATOR
SECRETARY**
 - JUDICIAL PLANNING SERVICES
DIRECTOR
SECRETARY
ASSISTANT DIRECTOR
SECRETARY**
 - JUDICIAL EDUCATION SERVICES
DIRECTOR
ASSISTANT DIRECTOR
SECRETARY**
 - JUDICIAL ADMINISTRATIVE SERVICES
DIRECTOR
FISCAL ASSOCIATE
PERSONNEL ASSOCIATE
OFFICE ASSISTANT
SERVICE WORKER
OFFICE CLERK I**
 - JUDICIAL INFORMATION SYSTEMS
DIRECTOR
DEPUTY DIRECTOR
SECRETARY**
 - STANDING COMMITTEE ON RULES
OF PRACTICE AND PROCEDURE
CHAIRMAN**
 - ATTORNEY'S GRIEVANCE
COMMISSION
CHAIRMAN**
 - BAR COUNSEL**
- CIRCUIT ADMINISTRATORS
FIRST CIRCUIT
SECOND CIRCUIT
FOURTH CIRCUIT
FIFTH CIRCUIT**
- BALTIMORE CITY JUVENILE COURT
ADMINISTRATOR
DEPUTY**
- CIRCUIT COURT
PROGRAMMER ANALYSTS**
- DISTRICT COURT
PROGRAMMER ANALYSTS**

CIRCUIT COURT ADMINISTRATION

In the First, Second, Fourth, and Fifth Judicial Circuits, the circuit administrative judge is assisted by a State-funded circuit administrator. There are locally-funded circuit administrators in the Seventh and Eighth Circuits and county administrators are provided for in Baltimore and Montgomery Counties. Administration at the circuit court level poses some problems because each circuit court is funded and administered locally at the political subdivision level, and there is no chief judge to exercise supervisory responsibility for administration. However, a Conference of Circuit Administrative Judges does meet periodically to address administrative problems.

During fiscal 1976-77, the circuit administrators reported a number of accomplishments in their respective areas to facilitate the judicial administrative process. In the first circuit, the appointment of an additional circuit judge for Wicomico County will give the bench more flexibility in working to eliminate trial backlog in Dorchester and Worcester Counties, by furnishing assistance to each of those counties for one week out of each month. In Dorchester and Wicomico Counties the assignment of criminal cases has been removed from the State's Attorneys to give the court more direct control over those cases. Efforts have also been initiated to establish a uniform job classification, job description and salary scale for court reporters in the first circuit.

In the Second Judicial Circuit, with the cooperation of the Department of Juvenile Services and the State's Attorney's Office, a reporting procedure was instituted to enable the judges to review the flow of juvenile causes through their courts on a monthly basis. The procedure has proved to be a useful tool since it highlights where delays are occurring within the system. In addition, it reflects the decision of the intake officer to either treat the case formally or informally and the reason for the officer's decision. Another project implemented in the second circuit enabled the court to keep track of dispositions in Uniform Reciprocal Enforcement of Support Act cases. As a result of maintaining control over those cases, clerks' offices within the circuit have been able to obtain a considerably greater number of dispositions from foreign states.

The circuit administrator for the Fourth Judicial Circuit reported that new four-channel, audio tape systems were installed throughout the courtrooms of the circuit which incorporate all the equipment features and electronic specifications recommended by the National Center for State Courts in their study of *Court Reporting Services in Maryland* (March 1976). Ground also was broken for the initial phase of extensive renovations to the Court House in Garrett County. Completion of the project is scheduled for June of 1979. In Washington County an extensive re-design of the Bar Library resulted in the availability of 22 percent additional shelf space within the same square footage.

In the Fifth Judicial Circuit two major changes occurred in Anne Arundel County. The first was the implementation of a computer based system for handling criminal cases that is completely self-sufficient and located within the Anne Arundel Court House. The new system was designed to perform a number of tasks that were previously done manually by the State's Attorney's and Clerk's Offices. It will also provide management reports for the Anne Arundel Circuit Court and its related agencies. The second major change in Anne

Arundel County was the transfer in the Assignment Office from an individual to a central assignment system. As a result of that change hearing dates for motions are being assigned with a two-month period while non-jury cases are being assigned within a three-month period. The length of time for assigning hearing dates has been cut by at least 50 percent since returning to the central assignment system. While scheduling of jury trials has remained about the same, trial dates that are set are now firm dates since cases can be assigned to any judge for trial.

In the Seventh Judicial Circuit, it was reported that in April of 1977 the Circuit Court for Prince George's County reduced the time of service for its petit jurors from four weeks to two weeks, with the overall objective of reaching a broader segment of the registered voters to serve as jurors. On the first day that this system was implemented, 90 jurors were summoned for jury service. However, after the first week, 45 jurors were discharged for recall later and another 45 jurors were summoned, thereafter providing a rotating pool of 90 jurors, 45 of whom had been in service for one week and of whom 45 were "new". In addition, Prince George's County has produced a slide presentation in connection with its one-hour orientation procedure. It is viewed by the new jurors each week. This slide program, which takes approximately one-half hour, is produced locally using local circuit court judges and other court personnel.

In the Eighth Judicial Circuit after much negotiation between the City of Baltimore and the Federal Government, the Supreme Bench of Baltimore City was successful in securing the old Federal Post Office and Court House Building to renovate and transfer its civil courts there. In the second phase of the renovation project, the Supreme Bench has been successful in getting approval from the Federal Government for a grant of \$890,000 to rehabilitate the old City Court House. The Supreme Bench also requested a federal grant for computer assisted transcription and hopes to have such a system in effect early in 1978. As previously noted in this *Report* substantial changes were made in the Juvenile Court for Baltimore City, including the upgrading of personnel and automation of records.

A special arraignment court in Part 3 of the Supreme Bench's Criminal Court of Baltimore was established September 1976 for specially assigned teams of Assistant State's Attorneys and Assistant Public Defenders to analyze each case at arraignment for possible immediate disposition. With cooperation from other segments of the criminal justice system, operations during Fiscal 1977 had a high degree of success in reducing trial delay for defendants incarcerated in jail.

During this period of operation, the arraignment court succeeded in substantially increasing the number of cases concluded compared with the average number of cases concluded by a regular trial part of the Criminal Court. This court has disposed of approximately 25 percent of all defendants entering the system. The average period from arrest to disposition where the case is pleaded without a trial is approximately 50 days, as compared to approximately 160 days for those cases that go to trial. In addition, all matters relating to arraignment, including bail and medical evaluation in all jail and bail cases, were consolidated in this part.

Some of the benefits derived from the operation of this specialized court are: (1) priority to defendants in jail with potential for disposition within 50 days, (2) savings in time resulting from substantial reduction in clerical effort in

processing cases ultimately disposed of by pleas of guilty, stets, "nolle prosses," or dismissals, and (3) reduction of potential speedy trial problems and relief to the over-crowded jail conditions.

ASSIGNMENT OF JUDGES

Efforts to maximize the use of available judicial manpower by temporary assignment of judges to courts throughout the State continued at a high level for the twelve-months' period ending June 30, 1977. The authority to make such assignments in any court is vested in the Chief Judge of the Court of Appeals of Maryland, under Article IV, Section 18 A of the Maryland Constitution.

Many of those assignments were pursuant to a plan approved by the Conference of Circuit Administrative Judges and adopted by the Chief Judge, effective January, 1976. A schedule of assignments covering a twelve-months' period alerts the Circuit Administrative Judge well in advance as to the period his circuit may be called upon to provide assistance to another circuit. It eliminates a basic decision-making process; namely, a determination whether assistance can be provided. Fully supported by justification (extended illness, long-unfilled vacancy, etc.) from the circuit requesting assistance, the Chief Judge exercised this authority pursuant to the plan by executing 25 designations of circuit court judges for a total of 137 judge days, which is more than equivalent to one half of a judge year.

Likewise, efforts to maximize available judicial manpower among the counties within the eight circuits continued at a high level where, pursuant to the authority under the Maryland Rules the Circuit Administrative Judge can shift judges around within his circuit without formal approval or execution of a designation by the Chief Judge of the Court of Appeals. This occurred in situations of extended illnesses, vacations, and disqualification of a judge to preside over a particular case.

Shortages of available judicial manpower by reasons of extended illnesses, long, unfilled vacancies and the need to address a backlog of cases were experienced by the District Court, Maryland's trial court of limited jurisdiction. Pursuant to the authority vested in him under the Constitution and Maryland statutes, the Chief Judge of the District Court made, within that court, 300 assignments for a total of 874 judge days. In addition, the Chief Judge of the Court of Appeals designated District Court judges to sit at the circuit level for over 400 judge days, 290 of which were in the Criminal Court of the Supreme Bench of Baltimore City.

The Chief Judge of the Court of Appeals also exercised his authority at the appellate court level where it was necessary to designate appellate judges to specific cases. Nine of the judges of the Court of Special Appeals were designated to the Court of Appeals to hear these cases. Also, it should be noted that appellate judges assisted from time to time in both the District Court and circuit courts.

Finally, and effective July 1, 1977, as a result of legislation enacted by the 1977 General Assembly, we will be able to recall former judges to provide temporary judicial assistance. While we plan to continue the use of the Temporary Judicial Assignment Plan described briefly above, while other assignments of active judges will occur as needed and additional judgeships above authorized will be sought to meet the growing demands of the court system, our efforts to maximize the use of available judicial manpower with this additional resource will be enhanced.

COURT RELATED UNITS

BOARD OF LAW EXAMINERS

Originally in Maryland the various courts were authorized to examine persons seeking to be admitted to the practice of law. The examination of attorneys remained as a function of the courts until 1898 when the State Board of Law Examiners was created (Chapter 139, Laws of 1898). The Board is presently composed of three attorneys appointed by the Court of Appeals.

The Board and its administrative staff administer bar examinations twice annually during the last weeks of February and July. Each is a two-day examination with six hours of testing per day.

Commencing with the Summer 1972 Examination, pursuant to Rules adopted by the Court of Appeals, the Board adopted, and has used as part of the overall examination, the Multistate Bar Examination. This is the nationally-recognized law examination consisting of multiple-choice type questions and answers, prepared and graded under the direction of the National Conference of Bar Examiners. The MBE test now

occupies the second day of the examination with the first day devoted to the traditional essay examination, prepared and graded by the Board.

The MBE test has been adopted and is now used in forty-three jurisdictions. It is a six-hour test which had originally covered five subjects: Contracts, Criminal Law, Evidence, Real Property, and Torts. Another subject, Constitutional Law, has been added commencing with the February 1976 Examination with the time remaining the same.

Pursuant to the Rules Governing Admission to the Bar, the subjects covered by the Board's test (essay examination) shall be within, but need not include, all of the following subject areas: Agency, Business Associations, Commercial Transactions, Constitutional Law, Contracts, Criminal Law and Procedure, Evidence, Maryland Civil Procedure, Property, and Torts. Single questions may encompass more than one subject-area and subjects are not specifically labeled on the examination paper.

The results of examinations given during 1976-77 were as follows:

EXAMINATION	NUMBER OF CANDIDATES	NUMBER OF CANDIDATES TAKING FIRST TIME	NUMBER OF CANDIDATES PASSING FIRST TIME	TOTAL SUCCESSFUL CANDIDATES
SUMMER 1976 (July)	756	590	409 (69%)*	442 (58%)
Graduates University of Baltimore	221	124	65 (52%)*	79 (36%)
Graduates University of Maryland	210	190	159 (84%)*	166 (79%)
Graduates Out-of-State Law Schools	325	276	185 (67%)*	197 (61%)
WINTER 1977 (February)	445	192	136 (70%)*	236 (53%)
Graduates University of Baltimore	199	73	45 (61%)*	79 (40%)
Graduates University of Maryland	57	23	18 (78%)*	39 (68%)*
Graduates Out-of-State Law Schools	189	96	73 (76%)*	118 (62%)

*Percentages are based upon the number of first-time candidates.

In addition to administering two regular bar examinations per year, the Board also processes applications for admission filed under Rule 14 which governs out-of-state attorney applicants

A significant revision to Rule 14 was made in February, 1976. Previously, applicants who met all essential requirements under the Rule were admitted without examination, or on motion. By Order of the Court of Appeals of February 5, 1976, it adopted a revised Rule 14 which provides that out-of-state lawyer applicants for admission, in addition to other requirements, must take and pass an attorney examination. It was further provided that the examination is an essay type test limited in scope and subject matter to the rules in Maryland which govern practice and procedure in civil and criminal cases and also the Code of Professional Responsibility. The test is of three hours duration and is administered on the first day of the regularly-scheduled bar examination. The first administration of this out-of-state attorney examination was on the last Tuesday in July, 1976.

Subsequent to the Court's adoption of revised Rule 14 in February 1976, forty-nine out-of-state attorneys filed applica-

tions under the Rule and took the July 1976 Attorney Examination. Forty-two passed the examination and seven failed; this represents a passing rate of 86%.

At the Attorney Examination administered on the last Tuesday of February, 1977, thirty-one new applicants applied for and took the examination along with seven applicants who had failed the prior examination making a total of thirty-eight out-of-state attorneys taking this examination. Of that total, thirty-two passed and three failed who were taking the examination for the first time, and three failed for the second time; this represents a passing rate of 84%.

A change in the composition of the Board of Law Examiners is contemplated by the end of the Calendar Year 1977. House Bill No. 1536, introduced at the 1977 Session of the Maryland General Assembly, provided for certain revisions and amendments to Article 10, Section 2 of the Annotated Code of Maryland (1976 Replacement Volume and 1976 Supplement) which change the membership of the Board of Law Examiners from the present three members to seven members. This Bill was enacted into law by Chapter 273 of the Laws of 1977, to take effect on January 1, 1978.

RULES COMMITTEE

The Standing Committee on Rules of Practice and Procedure, usually called the Rules Committee, was originally appointed by an Order of the Court of Appeals dated January 22, 1946, to succeed an ad hoc Committee on Rules of Practice and Procedure appointed by an Order of the Court dated March 5, 1940. Its members consist of "...lawyers, judges, and other persons competent in judicial practice, procedure or administration." (Courts Article, Section 13-301). The Rules Committee meets regularly to recommend changes in or additions to the rules of the Court of Appeals governing the practice and procedure and judicial administration. Its members serve without compensation.

Perhaps the most gratifying accomplishment of the year under review was the Court's promulgation effective July 1, 1977, of the revised Criminal Rules, culminating a four year project. Another highlight was the Court's promulgation of revised Juvenile Rules. Other important rules changes included amendment of Rule 542 (Removal), adoption of new Rule 764 (Costs) and its Maryland District Rule counterpart providing for the taxing of costs in all criminal dispositions other than acquittals and dismissals; amendment of Rule 1299 (Disposition of Records) and its MDR counterpart; and amendment of Rule 1311 (How Appeal to Be Taken).

Noteworthy in the Committee's continuing consideration of Maryland Rules of Evidence was the panel discussion held at Loyola College on May 20, 1977, in which Judges Murray and Young of the United States District Court for the District of Maryland participated, with Professor Larry S. Gibson of the University of Maryland Law School, the Special Reporter to the Evidence Subcommittee, acting as moderator. Six members of the Court of Appeals, and the full Rules Committee, attended.

Other important projects under active consideration include amendment of the BV Rules on Attorney Discipline, amendment of the rules governing admission to the bar to provide for the *pro hac vice* admission of out-of-state attorneys, rules on lawyer advertising, rules amendments to provide procedures necessary to implement the Criminal History Information System; rules on attorney competence; and Probate Rules. The latter two projects are within the scope of the Committee's long-range objective of revision and reorganization of the Maryland Rules into a more rational and useable format, which is currently underway.

ATTORNEY GRIEVANCE COMMISSION

By Rule of the Court of Appeals the Attorney Grievance Commission was created in 1975 to supervise and administer the discipline and inactive status of attorneys. The Commission consists of seven attorneys appointed by the Court of Appeals for four-year terms. No member is eligible for reappointment for a term immediately following the expiration of the member's service for one full term of four years. The Chairman of the Commission is designated by the Court. Members of the Commission serve without compensation. The Commission appoints, subject to approval of the Court of Appeals, an attorney to serve as Bar Counsel and principal executive officer of the disciplinary system. Duties of the Bar Counsel include investigation of all matters involving possible misconduct, prosecution of disciplinary proceedings, and investigation of petitions for reinstatement.

By the same Rule of Court, the Court of Appeals also established a Disciplinary Fund to cover expenses of the Commission and provided for an Inquiry Committee and a Review Board to act upon disciplinary cases. The Fund is composed of annual assessments upon members of the bar as a condition precedent to the practice of law.

The experience gained in the early months of operation of the Attorney Grievance Commission has been used during the past year to develop more efficient and expeditious procedures for processing and concluding complaints in order that the interests of the public and the bar be more effectively served. Most importantly, uniformity has been achieved in handling complaints through the application of consistent

policies by the Bar Counsel's office, Inquiry Panels and the statewide Review Board. Measures have also been taken to establish and maintain reasonable time limitations within which each step in the disciplinary process must occur in order to reduce to a minimum the time between initial receipt and final disposition of a complaint.

During fiscal year 1976-77, the Attorney Grievance Commission received a total of 502 complaints and re-opened three complaints. Within the same period it disposed of 546 complaints, with 38 of those resulting in disciplinary action being taken involving 27 attorneys. Of the latter number, eight were disbarred while an additional four received suspension and 13 received reprimand. In the first year of its operation (1975-76) the Commission had disposed of 608 complaints, only 18 of which resulted in disciplinary action, including eight disbarments, three suspensions and six reprimands.

Summary of Disciplinary Action

	1975-76	1976-77
Complaints Concluded	608	546
Disciplinary Action Taken:		
Disbarment	4	3
Disbarment by Consent	4	5
Suspension	3	4
Public Reprimand	0	1
Private Reprimand	6	12
Placed on Inactive Status*	1	2

*Prohibits attorney from practicing law due to emotional status.

CLIENT'S SECURITY TRUST FUND

The Client's Security Trust Fund was established by an act of the Maryland Legislature in 1965 (Acts of 1965, ch. 779; Code, Article 10, Sec. 43). The statute empowers the Court of Appeals to provide by rule for the operation of the Fund and to require from each lawyer an annual assessment as a condition precedent to the practice of law in the State of Maryland. Rules of the Court of Appeals that are now in effect are codified as Rule 1228, Maryland Rules of Procedure, Volume 9B, 1971 Replacement Volume, page 929 *et seq.*

The purpose of the Clients' Security Trust Fund is to maintain the integrity and protect the name of the legal profession by reimbursing, to the extent authorized by these rules and deemed proper and reasonable by the trustees, losses caused by defalcations of the members of the Bar of the State of Maryland, acting either as attorneys or as fiduciaries (except to the extent to which they are bonded).

Trustees are appointed by the Court of Appeals from the members of the Maryland Bar. One trustee is appointed from each of the first 5 Appellate Judicial Circuits and two from the Sixth Appellate Judicial Circuit. Trustees serve on a staggered seven year basis. As each term expires a new appointment shall be a seven year term.

During Fiscal Year 1976-77 the Trustees met four times and considered 24 claims against the Fund, of which thirteen were approved totalling payments of \$84,347.96.

The Trustees collected \$118,670.51 for the Fund Account as follows:

Assessments	\$78,056.98
Interest	39,538.83
Restitution	1,074.70

The Fund expenditures totaled \$119,717.08 as follows:

Claims Paid	\$84,347.96
Investigation Expenses	8,000.00
Legal Expenses	319.49
Maryland Lawyers' Manual Contribution	5,000.00
Billing and Collection	7,097.51
Secretarial & Administrative Expenses	13,902.99
Trustee's Meetings	489.13
Audit Expenses	560.00

The Fund balance at the end of the fiscal year was \$604,537.96.

A change was recommended and approved in the Rules of the Fund increasing the Fund liability for a defalcation from a maximum of \$10,000.00 to a maximum of 10% of the net Fund balance as of the close of the preceding fiscal year.

The Court of Appeals also changed Rule 1228J to provide for judicial review of a decision of the Trustees.

As a result of a meeting with the Maryland Bar Association, and with the approval of the Court of Appeals, a policy was adopted that will permit the listing of all eligible practicing lawyers as of the end of the previous fiscal year in the ensuing publication of the Maryland Lawyers' Manual. This will correct a serious deficiency in lists in previous Maryland Lawyers' Manuals.

The number of practicing attorneys in the Fund List increased from 9,246 at the beginning of the year to 9,716 at the end of the year.

JUDICIAL CONFERENCES

THE MARYLAND JUDICIAL CONFERENCE

The Maryland Judicial Conference had its beginnings in 1945, when it was informally organized by the Honorable Ogle Marbury, then Chief Judge of the Court of Appeals. The Conference presently exists under the provisions of Maryland Rule 1226, which directs the Conference "to consider the status of judicial business in the various courts, to devise means for relieving congestion of dockets where it may be necessary, to consider improvements of practice and procedure in the courts, to consider and recommend legislation, and to exchange ideas with respect to the improvement of the administration of justice and the judicial system in Maryland."

Since 1971, the Conference has consisted of all the judges of the Court of Appeals, the Court of Special Appeals, the circuit courts of the counties and the Supreme Bench of Baltimore City, and the District Court of Maryland. The State Court Administrator is its Executive Secretary and the Chief Judge of the Court of Appeals is its Chairman.

The Conference meets annually in plenary session. Between sessions, its work is conducted by an Executive Committee, consisting of judges elected by Conference members, and by from ten to a dozen other committees appointed by the Chief Judge in his capacity of Conference Chairman.

The activities of the Conference fall into two general categories. One is that described in the preceding quotation from Maryland Rule 1226: taking measures to improve the general administration of justice in Maryland. The second, which has become more prominent in recent years, involves taking an active part in the provision of continuing judicial education for the judges of the State.

During Fiscal 1977, the Conference held its plenary session from April 28 through 30, 1977 at the Baltimore Hilton Inn on Reisterstown Road. At this meeting, the judges spent a day and a half hearing lectures and participating in panel discussions on "Courts in the Community" and "Recent Developments in Certain Areas of the Law of Torts." The instructors included Judge Nat H. Hentel, of the Civil Court, City of New York and Professor Robert A. Leflar, of the University of Arkansas School of Law, as well as Judges Digges, Levine, and Eldridge of the Maryland Court of Appeals.

In addition, a half-day of the Conference was devoted to a discussion of judicial pensions and retirement conducted by Jacques T. Schlenger, Esquire and Shale D. Stiller, Esquire, of the Baltimore Bar, and a national overview of judicial compensation presented by Alex B. Aikman, of the National Center for State Courts.

There was also a half-day business session which included an extensive discussion of 1977 legislative developments of particular interest to the judges.

In addition to the educational aspects of the plenary meeting, the Conference's Committee on Education and

Training organized, and with the help of Administrative Office of the Courts staff and a number of judges and lawyers, conducted a series of three educational sessions at the University of Maryland College Park Campus. One of these sessions was attended by each member of the Conference, unless excused for illness or other good cause. Likewise, a series of three three-day sessions were held for the purpose of orientation of newly-appointed trial court judges.

During the fiscal year, a number of the Conference's committees participated in activities relating to the improvement of the administration of justice.

The Bench/Bar Committee served as a forum for exchanging ideas and information between lawyers and judges and promoting cooperation between the bench and bar in improvement of the court system.

The Committee on Corrections held a series of discussions with officials of the executive branch, looking to the support of the community corrections concept, and to the improvement of operations of the Division of Parole and Probation.

The Committee on Criminal Law worked with legislators in a study of the Criminal Code proposed by the Commission on Criminal Law.

The Committee on Juvenile and Family Law and Procedure supported in the legislature a number of important proposals including the phasing out of masters in the juvenile courts, the decriminalization of non-support, and the establishment of a family court.

The Legislative Committee supported some 34 pieces of legislation during the 1977 General Assembly, in many cases drafting the bills and presenting testimony before the appropriate legislative committees. A number of these legislative matters are discussed in the section of this Report entitled "1977 Legislation Affecting the Courts."

The judicial education activities of the Conference have proved very effective. And there is no question that the work of many of the committees has been valuable in promoting the effective administration of justice. However, the use of the Conference as a forum in which all judges could participate in wide-ranging discussions of the judicial system and its improvement has not been fully realized. Recognizing the great potential of such discussion by judges from all levels of the court system and from all parts of the State, the current Executive Committee, under the chairmanship of the Honorable Joseph C. Howard of Baltimore, is taking steps to encourage this activity. It is hoped that these efforts will bear fruit in the coming year.

The 1978 meeting of the Conference will take place in Baltimore on January 12, 13, and 14, and will be held in conjunction with the Winter Meeting of the Maryland State Bar Association.

THE CONFERENCE OF CIRCUIT ADMINISTRATIVE JUDGES

The Conference of Circuit Administrative Judges, established under the authority of Maryland Rule 1207, and whose membership consists of the Circuit Administrative Judges of the eight judicial circuits, met five times from September, 1976, to May, 1977.

The Chief Judge of the Court of Appeals, the Chief Judge of the Court of Special Appeals, and the Chief Judge of the District Court have, for some years, participated to the extent possible in Conference activities. In Fiscal 1976, the Conference decided that it would be valuable to have more District Court participation, in order to encourage further coordinated activity by the two trial courts.

As a result of that decision, two administrative judges of the District Court were named to the Conference. During Fiscal 1977 they continued to participate and make meaningful contributions in many areas of Conference discussion. The following summarizes some of the important matters considered and acted upon.

Grand Jury Handbook

After considerable discussion, the Conference approved for Statewide use a revised handbook for Grand Jurors called to service. It does not purport to be a complete statement of the law affecting the Grand Jury, but it is designed to point out some of the most important matters regarding the Grand Jury's duties and powers. In Fiscal 1975, the Conference approved for use State-wide a handbook for Petit Jurors called to service in all circuit courts in this state.

Content of Presentence Investigations

The Conference took the position that presentence reports should contain as much information as possible leaving it to the discretion of each judge what matters should or should not be considered at the time of sentence.

Issuance of Search Warrants

The Conference recommended that when a circuit court judge issues a search warrant for execution outside of his county, but within the same judicial circuit, he should indicate on the warrant that he is acting as a judge of the circuit court of the county in which the search is to be carried out. This assignment to a circuit court of another county within the same circuit can be effected by the Circuit Administrative Judge pursuant to Maryland Rule 1202.

Exercise of Visitorial Powers by Judges

The Conference's major undertaking in the past year concerned the appropriate manner in which judges of the circuit courts should exercise visitorial powers over clerks' offices granted to the judges under the Constitution. The discussion was prompted by the special report of the Grand Jury of Baltimore City and the Special Prosecutor with regard to the activities of the clerk of Circuit Court No. 2 of Baltimore City. The Conference considered whether rules and regulations should be in writing, and if so, whether they should be promulgated by the Court of Appeals for State-wide implementation or should each circuit determine the nature and extent to which it will exercise those powers and thus allow flexibility for local conditions. A Committee on Visitorial Powers was formed consisting of Conference members, a judge of a circuit court, three clerks, and the State Court Administrator. It was decided by the Committee that rules and regulations covering the following areas will be recommended for promulgation by the Court of Appeals: (1) hours during which clerks' offices shall be open, (2) nature and extent of the employee work week, (3) leave policies, (4) approval of the appointment of employees, (5) disciplinary procedures for

removal of deputy clerks, (6) prohibition of the use of office personnel, facilities, and equipment for other than public business of a clerk's office, (7) prohibition of discrimination on account of race, color, creed, national origin, sex, or age, and, (8) reporting procedures to assure compliance. Action on the Committee's recommendations by the Conference or Court of Appeals was not taken in Fiscal Year 1977.

Procedures for Early Termination of Probationary Period

The Conference recommended a State-wide uniform procedure in cases in which the Maryland Division of Parole and Probation, upon application to the court having jurisdiction in the matter, requests the court to reduce the original period of probation and discharge the probationer. Action will only be taken when, upon satisfactory proof to the court, all conditions of probation have been met; all fines, cost and other monies due have been paid; the probationer has not, since being placed on probation, been convicted of any crime or motor vehicle violation and has no criminal proceeding pending. The procedure adopted should only be utilized after careful consideration, not simply to be used to reduce the caseload of the Division.

Efforts to Improve Probation Services

During Fiscal 1977, the Conference was presented with a number of proposals and steps to improve probationary services by the Maryland Division of Parole and Probation. Correcting major deficiencies such as inadequate staffing and unreasonably large caseloads was the primary goal of the proposals, and thus restoration of confidence in the Division to carry out its responsibilities effectively.

One of the major proposals presented was the transfer of responsibility for collecting monies of criminal nonsupport and domestic relation equity matters from the Division to the Child Support Enforcement Division, Department of Human Resources. The second major proposal was to restructure the criminal case supervision system by establishing levels of supervision to guarantee a "predictable minimum level of supervision," and permit "tracking of a probationer during the entire period" of probation. After full discussion, the Conference expressed the position that the court should have the final word on the appropriate level of supervision, but it reserved decision on the "transfer" issue.

Disposition of Criminal Cases Following Conviction

Concerned about the length of time between the date of conviction and the date of sentence, which in many cases is beyond a judge's control, the Conference recommended, and the Chief Judge of the Court of Appeals, acting upon the recommendation, promulgated, an Administrative Order stating that to the extent feasible, the date of sentence should be set on the date of conviction which, except in compelling circumstances, should be no later than six weeks from the date of conviction. Nothing, however, precludes a judge from setting an earlier date for sentence.

Efforts to Develop Uniform Case File Folders, Docket Entries, and Dockets

During Fiscal 1977, a committee of Conference members struggled with a project to develop uniform case file folders, docket entries, and dockets in the circuit courts throughout the State. The committee met a number of times to consider the methods by which this could be effected, and potential cost savings, if any. It was reported to the Conference that there was considerable resistance by the clerks and some judges to move in this direction. As a result, the Conference by vote voted to discontinue the project.

Uniform Procedure for Specially Assigning Judges and Masters to Handle Juvenile Causes

The Conference approved a uniform procedure for specially assigning judges and masters to handle juvenile causes pursuant to §§3-803 and 3-813 of the Courts and Judicial Proceedings Article. As adopted, the procedure calls for the submission to the Chief Judge of the Court of Appeals of a letter requesting approval of an assignment together with the original order signed by the Circuit Administrative Judge subject to the approval of the Chief Judge.

Court-Ordered Mental Examinations

The Conference focused on the serious problem with which the Department of Health and Mental Hygiene is faced in attempting to conduct and submit promptly reports on mental examinations ordered by the court under Article 59 of the Annotated Code. The fiscal and logistical problems resulting from the amendment in FY '77 to Article 59, Section 46, which transferred responsibility for payment of such services

from the political subdivision to the State was also addressed. The Department was asked to consider designating State-salaried psychiatrists who provide part-time services at local mental health facilities, and also private psychiatrists who provide services at these facilities under per diem contract with the Department as "representatives of the Department" so that additional resources could be made available to the courts. Meetings were held with the Secretary and key representatives of the Department, but no firm assurances were given that improvements will be forthcoming soon. No definitive action was taken by the Conference except to wait and see what develops.

Many other matters of concern to the circuit courts and the District Court were discussed covering the entire spectrum of judicial administration. This report can only summarize some of the activities considered and/or acted upon.

APPOINTMENT AND DISCIPLINE OF JUDGES

To be eligible for a judgeship, the constitution provides that a person must be: a citizen of Maryland, a resident of the State of Maryland for at least five years, a resident of the particular circuit or district from which he is elected or appointed for at least six months, a qualified voter, qualified to practice law in Maryland, and at least thirty years old. He must also be selected from among those lawyers "who are most distinguished for integrity, wisdom, and sound legal knowledge." Mandatory retirement age for all judges is age seventy.

There are four methods which may be employed to remove a judge from office. According to Article IV, Section 4 of the Maryland Constitution, he may be removed by:

1. The Governor, "on conviction in a court of law for incompetency, wilful neglect of duty, misbehavior in office, or

any other crime, or upon impeachment."

2. The General Assembly, with the concurrence of 2/3 of each house, provided that the judge received notices of the charges and had an opportunity to defend himself.
3. The Court of Appeals, upon recommendation of the Commission on Judicial Disabilities.
4. Also, Article XV, Section 3 of the Constitution, as adopted in 1974, seems to provide a fourth method as to elected judges. It provides for automatic suspension of an "elected official of the State" who is convicted or enters a nolo plea for a crime which is a felony. If the conviction becomes final, the officer is automatically removed from office.

Only the third method has actually been used within recent memory.

JUDICIAL NOMINATING COMMISSIONS

Under the Maryland Constitution, at the initial occurrence of a judicial vacancy or upon the creation of a new judgeship, the Governor normally is entitled to appoint a person to fill the position.

For many years, Maryland governors exercised this power, seeking only such advice as they might wish to obtain from Bar Associations, legislators, lawyers, or others. But because of dissatisfaction with this process, as well as concern with other aspects of judicial selection and retention procedures in Maryland, the Maryland State Bar Association pressed for adoption of one or another variation of what has come to be known as "merit selection" procedures.

In 1970, upon the recommendation of the State Bar Association, Governor Marvin Mandel promulgated two Executive Orders. These established judicial nominating commissions throughout the State, which have recommended to the Governor qualified candidates for judicial office. Since the promulgation of those Executive Orders, the Governor has made all judicial appointments from lists of nominees submitted by a nominating commission.

The 1970 Executive Orders were replaced by a single Executive Order dated December 18, 1974. That Order establishes eight Trial Courts Judicial Nominating Commissions, one for each of the eight judicial circuits into which the State is divided. These trial court commissions make recommendations with respect to vacancies on the circuit courts for the counties, the Supreme Bench of Baltimore City, and District Court of Maryland. There is also an Appellate Judicial Nominating Commission which makes nominations for vacancies on the Court of Appeals and Court of Special Appeals.

Each of these commissions consists of six lawyer members elected by other lawyers within designated geographical areas, six lay members appointed by the Governor, and a chairperson, who may be either lawyer or lay person, also appointed by the Governor.

The State Court Administrator is ex-officio secretary of each nominating commission and provides staff services to all of them.

When a judicial vacancy occurs or is about to occur, the State Court Administrator notifies the appropriate commission and through announcements in the press and to

the appropriate bar associations, seeks applications, which are distributed to the commission members as filed.

After the filing deadline for the vacancy has occurred, the commission meets, considers the applications and other relevant information, such as recommendations from bar associations or individual citizens, and then prepares a list of fully qualified applicants for submission to the Governor. The list is prepared by secret written ballot and no applicant may be included on the list unless he has the affirmative votes of not less than seven members of the commission. As indicated, under the Executive Order, the Governor may not appoint a judge except from a commission list.

During fiscal year 1977, the nine judicial nominating commissions held a total of 18 meetings for the purpose of considering the submission of judicial nominees to the Governor. Each Commission met at least once during the fiscal year, with the exception of the Second Circuit Commission. The Eighth Circuit Commission held the most meetings, with a record of six.

During the fiscal year a total of 16 vacancies both occurred and were filled, five at the circuit court/Supreme Bench level and eleven at the District Court level. A total of 108 people applied for these positions, 31 for the circuit courts/Supreme Bench vacancies and 77 for the District Court vacancies.

These figures indicate a level of activity quite close to that reported in Fiscal 1976.

On December 16, 1976, representatives of the nominating commissions, the bar, and the public convened the Maryland Conference on Judicial Nominating Commissions. This all-day meeting discussed a number of aspects of the nominating commission system and several suggestions for improvement. As a general proposition, the conferees endorsed the continuation and strengthening of the nominating commission procedure.

One of the recommendations of the Conference was that a process of interviewing applicants should be attempted, although not made mandatory at this point. Pursuant to that suggestion, commissions in the First, Fourth, Seventh, and Eighth Circuits have utilized interviews in connection with the preparation of lists of nominees and have found the procedure helpful to them as a general rule. In the forthcoming fiscal year,

it is anticipated that several other commissions will initiate the use of interviews.

Several problems continue to affect the nominating commission process.

One of these is an occasional difficulty in securing a sufficient number of commissioners at some meetings. Although most commissioners are faithful in their participation, some occasionally have difficulty making meeting dates. Since a commission may only place a person on a list of nominees by vote of a majority of the full authorized membership of the commission (at least seven votes) a small turnout not only deprives the commission as a whole of the benefit of views of all commission members but also can make it difficult to make up a list.

Another problem, which is beyond the control of the commissions themselves, has to do with small numbers of applicants in some jurisdictions, particularly the Eighth Circuit. The last three vacancies on the Supreme Bench of Baltimore City produced, respectively, six, eight, and six applicants. This is astonishing in a city in which well over 2,000 lawyers practice. It is impossible to say with certainty what causes this difficulty, but some commission members have expressed the view that the political election procedure

required with respect to Supreme Bench judges, combined with current judicial salary levels as contrasted with lawyer income, are producing the small number of applicants.

A third problem is likewise beyond the control of the commissions. It has to do with delays in making appointments. The commission themselves move with excellent expedition, generally submitting lists of nominees to the Governor prior to the actual occurrence of the vacancy. However, there have been some troublesome instances of lengthy delays between the submission of the lists and the announcement of the appointment, in one case in excess of four months.

Since there is usually some delay between the announcement of the appointment and the actual qualification of the new judge, not infrequently two weeks to a month additional, these lengthy delays between submissions of nominations and appointment have an adverse effect on the operation of the judicial branch, by keeping vacancies open unduly long.

On the whole, however, the nominating commission system seems to be working well and it is hoped that in the coming years some of the problems mentioned above can be reduced in scope, if not eliminated.

NOMINATING COMMISSIONS' STATISTICS

	FISCAL YEAR 1976 Judicial Vacancies occured & filled	No. of Applicants	FISCAL YEAR 1977 Judicial Vacancies occured & filled	No. of Applicants
Court of Appeals	1	5	0	0
Court of Special Appeals	0	0	0	0
Circuit Courts/Supreme Bench	12	37	5	31
District Court	6	72	11	77
Total	19*	114	16*	108

*During Fiscal Year 1977, 3 additional vacancies occurred but were not filled during the fiscal year, while another 3 vacancies were filled during the fiscal year, but occurred prior thereto. The comparative figures for Fiscal 1976 were 4 and 3.

THE COMMISSION ON JUDICIAL DISABILITIES

The Commission on Judicial Disabilities was established by constitutional amendment in 1966 and strengthened in 1970; its powers were further clarified in a 1974 constitutional amendment. The Commission is empowered to investigate complaints, conduct hearings, or take informal action as it deems necessary, provided that the judge involved has been properly notified. Its operating procedures are as follows: The Commission conducts a preliminary investigation to determine whether to initiate formal proceedings, after which a hearing is held regarding the judge's alleged misconduct or disability. There must be a majority vote to recommend censure, removal, voluntary retirement or reprimand. If, as a result of these hearings, the Commission decides that a judge should be retired or removed, it recommends this action to the Court of Appeals. The Commission can also issue a reprimand to the judge and recommend to the Court of Appeals that it censure or use appropriate discipline. However, the Court of Appeals may order a more severe discipline of the judge than the Commission had recommended.

The Commission on Judicial Disabilities opened 58 investigative files during the 1977 fiscal year. This represents a slight decrease from the 68 files opened in the previous year. In

addition, the Commission continues to receive numerous telephone calls and letters seeking advice as to how to make a complaint and making inquiries about the judiciary in general. No separate tabulation has been made of telephone inquiries or general letters. All letter writers and those telephone callers who desire it, are sent a statement of the Commission's purpose and jurisdiction and instructions on how to file a complaint.

As has been the experience in the past, most complaints received were dismissed after a minimum of investigation because it was clear that there was no judicial misconduct or wrongdoing. The most prevalent complaint continues to be simply dissatisfaction with the outcome of litigation usually arising out of either domestic relations cases or minor criminal cases where a complainant has sworn out a warrant on a neighbor and the judge has found the neighbor not guilty.

The Commission meets as a body irregularly depending upon the press of business. Its seven members are appointed by the Governor and include four judges presently serving on the bench, two members of the bar for at least fifteen years, and one lay person representing the general public.

NEW PROGRAMS AND DEVELOPMENTS

COURT PLANNING

Through staff capabilities in the Administrative Office of the Courts, a recent attempt has been undertaken to help uncover problems in the court system and to relate those needs to programs through which adequate resources can be identified. Known as the judicial planning process, this effort will include various steps necessary to analyze the courts on a comprehensive basis. Among these will be the creation of standards and goals, which will be utilized to guide the overall management direction of the courts, trend analysis and forecasting necessary for budget considerations and manpower allocation purposes, and short-term objectives and

priorities which can be used by individual jurisdictions in establishing desirable year-end results or targets. Judges, Court Administrators, Clerks, and other personnel in the court system are expected to participate in this systematic approach to planning.

In addition to these activities, the planning unit in the Administrative Office is responsible for the general supervision of grants funded by the Governor's Commission on Law Enforcement and the Administration of Justice. For a listing of these and other special projects now underway, please consult the subheading entitled Other Developments.

CONTINUING JUDICIAL EDUCATION

A series of three educational seminars on topics such as administration, ethics, jury trials, search and seizure, evidence and sentencing were conducted in September, October and November of 1976. The attendees, 20 in number, were those judges who had been appointed since September, 1975.

For the third year in succession members of the judiciary, from all levels, attended one of three educational seminars held in January, February and March of 1977. In keeping with the plan adopted at its annual meeting in April, 1976, the Committee on Judicial Education and Training designed these seminars which provided the "legislative history" for major changes in the Rules of Practice and Procedure in recent years. Subjects covered included Criminal Rules, Rules of Discovery, Attachment on Original Process, Mechanics' Liens, Replevin, and Masters.

Four circuit court judges attended the 1977 basic four week session of the National College of the State Judiciary in Reno, Nevada. Maryland has graduated fifty-two judges from the college, forty-one of whom are presently serving on the Bench.

A major project during the past year has been the creation of the Maryland Trial Judges' Benchbook. Quick and accurate decisions are demanded of the Maryland trial judge who frequently will be presiding in a civil action at law on one day, a criminal matter the next, sitting as an Equity Chancellor in the following week as well as presiding in the Juvenile Court or traffic courts of this State. Each type of litigation in addition to posing its issues of substantive law has its peculiar procedural and evidentiary problems. The purpose of the Benchbook is to assist the trial judge in these various roles. Additionally, this work should serve as a tool for the orientation of new judges and promote uniformity of procedure in trial practice throughout the state. It is intended as a guide to the adjudicatory processes involved in various classes of litigation and is not intended as a treatise on the substantive law or procedural aspects of the various subdivisions.

The Benchbook was conceived and drafted under the auspices of the Judicial Education and Training Committee of the Maryland Judicial Conference. Publication has been made possible through a LEAA Grant and the assistance of the

Governor's Commission on Law Enforcement and Administration of Justice.

Since the inception of the District Court the continuing educational process has played a large role in the operation of that court and training of its judicial and non-judicial personnel. In the following comments Chief Judge Robert F. Sweeney of the District Court gives his thoughts as to early attempts at judicial education.

"The seventy-one men and one woman who assembled at Manresa-on-Severn in Annapolis on the evening of Sunday, June 27, 1971, were well aware that they were to play a central part in an historic exercise in judicial reform, for they were to be the judges of the newly created District Court system that was to legally come into existence just seven days later. None of them were conscious, however, of the fact that their convocation was another landmark for the judicial branch of government in Maryland, for the week-long conference that began at Manresa on that Sunday night was an early formal exercise in judicial education in this state.

"None of the participants will soon forget the sense of anticipation that pervaded that assembly or the uncertainty shared by all as to what might be expected of this fledgling addition to the judicial branch of state government. To say that it was an exhausting week is to be guilty of understatement, for the program began at 9:00 each morning and class continued after dinner until 10:00 each evening. Thirty-five of those in attendance were judges in existing court systems throughout the state, most of whom were required during that week to preside over their courts by day and then journey to Annapolis for the evening sessions. The other thirty-six were newly appointed judges.

"The situation was further confused, if possible, by the fact that the Governor of Maryland called the Senate into an extraordinary special session for the sole purpose of considering the confirmation of those thirty-six new judges, and a constant shuttle between Manresa and the Statehouse was in use throughout the week as the judges-designate appeared in turn before the Senate Committee on Executive Nominations.

"Despite this and other handicaps, however, this five day live-in cram course in judicial education was a marked success as judges and lawyers from throughout the State gave freely of their time to lecture or conduct seminars on such diverse topics as pleading and discovery, the new rules of procedure for the District Court, the administration of the judicial system, and the newly adopted canons of judicial ethics. Because this program was so successful it was quickly decided that similar programs for all of the Court's judges would be conducted twice each year--in the spring and in the fall--and a committee on judicial education was appointed by the Chief Judge to develop and present those educational programs.

"When, in 1974, Chief Judge Robert C. Murphy of the Court of Appeals decided to emphasize the role of the annual Maryland Judicial Conference as a statewide conference on judicial education, the District Court discontinued its own spring conference on judicial education but has continued to conduct its annual fall program. To Chief Judge Murphy must go the lion's share of the credit for the fact that Maryland has become a leader in the field of judicial education, for all

Maryland judges are not only required to attend the three day Maryland Judicial Conference but also convene for a judicial workshop. With what is, hopefully, pardonable pride, however, the judges of the District Court system prefer to believe that they set the pattern which all Maryland judges now follow."

A Commissioner Education Committee of the District Court has been instrumental in preparing a manual for all commissioners of the Court containing the correct charge for all offenses contained in Article 27 of the Annotated Code of Maryland, and for common law offenses, for use in issuing Charging Documents. The Maryland District Rules, newly adopted by the Court of Appeals, effective July 1, 1977, created significant changes in the duties of commissioners and in procedures to be followed and this committee, in developing the manual, also developed the uniform procedures to be followed by the commissioners in complying with these rules. The manual formed the basis for commissioner training sessions held May 20 and 27 and June 3 and 10, 1977. The adoption of the new criminal rules made it also necessary to train all criminal and traffic clerks in the District Court.

OTHER DEVELOPMENTS

The following brief description of projects summarizes developments that have been (or about to be) undertaken which pertain to the overall administration of the courts.

Clerk's Manual on Procedures. This project which was completed in October, 1977, documents the procedures and operations of a clerk's office. Designed primarily for courts of general jurisdiction, this text includes sections on criminal, law, equity, juvenile, recording, licenses, appeals, and general administration. It is anticipated that this manual will serve as an operational tool for clerks and will also provide a good training device for new employees entering the courts system.

Court Management Interns. During the summer months a select group of graduate students are chosen to perform various assignments related to judicial administration. Over the past two years, these students have been able to complete the following set of tasks and studies under the supervision of the Administrative Office of the Courts:

- (a) Codification of all Administrative orders and memorandum;
- (b) Development of an "in-house" Policy and Procedures Manual for personnel in the Administrative Office of the Courts;
- (c) Monitoring of monthly statistical reports prepared by the Administrative Office of the Courts;
- (d) Development of forecasting techniques utilized for projecting caseload needs in circuit court planning efforts;
- (e) Study of jury selection processes and management practices in major metropolitan areas throughout the State; and
- (f) Completion of other assignments such as the review of procedural practices related to the violation of probation offenders and the study of existing financial report procedures in the Administrative Office of the Courts.

Training of Court Related Personnel. In the past, the primary emphasis in training has been in providing a good basis for new judges as well as allowing all judges to receive education annually. This year through the services of the Assistant Director for Training and Education and in cooperation with all clerk's offices in Maryland, a comprehensive training curriculum will be developed for line personnel in these offices. It is anticipated that these

efforts will lead to effective pre-service and in-service training programs.

Study and Development of Judicial Branch Personnel. This project will begin in the fall of 1977 and will study the existing personnel structure for the judicial branch at the State and local levels. Included in this analysis will be a review of problems confronting the Appellate, Circuit and District Courts in the area of personnel policies, salary scales, and job classifications which vary greatly among various court operations.

Information Systems Projects. The Information Systems Unit of the Administrative Office is responsible for collecting management information on all of the case filing and disposition activity of the trial courts in Maryland. In addition to this primary function, several other projects have developed in recent years to enhance the overall processing of cases through the courts. These include:

- (a) Juvenile Court Automated Administrative Support System - A project designed to implement a data support system to aid in the managerial and control of cases going through the Baltimore City Juvenile Courts;
- (b) Anne Arundel County Judicial Information System - A project examining the feasibility of a metropolitan county case scheduling system for use in jurisdictions surrounding the City of Baltimore;
- (c) District Court Criminal Disposition Reporting System - A project aimed at facilitating the transfer of certain specific aspects of criminal case histories to the State's central repository in the Department of Public Safety and Correctional Services; and
- (d) Maryland Traffic Adjudication System - A pilot project in Montgomery County which will provide the District Court of Maryland with a traffic citation system enabling the Court to more efficiently schedule resources to meet the needs of the public.

Maryland Judicial Personnel Allocation System. This project is designed to provide concise and accurate information concerning the individual workload posture of circuit court judges enabling the Chief Judge to allocate judicial personnel in an efficient manner.

STATE OF THE JUDICIARY ADDRESS

**DELIVERED BY CHIEF JUDGE ROBERT C. MURPHY
TO A JOINT SESSION OF
THE GENERAL ASSEMBLY OF MARYLAND
AT NOON ON JANUARY 26, 1977**

This month - January 1977 - marks my tenth year as a member of the Maryland Judiciary and my fifth as Chief Judge of the Court of Appeals of Maryland and administrative head of the judicial branch of our State government. It marks as well the third time that I have been privileged to address this distinguished body on the State of the Maryland Judiciary. It is an occasion of great importance to all Maryland judges because of the opportunity it affords me on their behalf to speak with you about judicial branch operations, both present and prospective; to focus briefly on some of the pressing issues of concern to the judiciary; and to advance proposals and ideas with respect to their resolution. In this latter connection, I fully appreciate the fact that you need no advice from me in discharging your legislative responsibilities, for I am a firm believer in the collective wisdom of legislative bodies, and particularly the General Assembly of Maryland with which I have worked so closely for almost 20 years.

In past addresses, I have spoken to you at length regarding problems associated with operating over 160 different courts throughout our 23 counties and Baltimore City, 5 days a week, 52 weeks a year, in disposing of the over one million cases annually which appear on our court dockets. I have spoken of the need for reform of our correctional system, for reform of our juvenile and criminal justice systems, for full unification of our court system, and of a myriad of other vexing problems with which the judiciary is chronically plagued. So responsive has this body been to many of our proposals, particularly within the last 10 years, that Maryland can no longer be counted among those states where it can fairly be said that judicial and law reform is measured in terms of centuries, rather than years. Yet much remains to be accomplished in our State, and the insatiable demands upon our court system mandate that you not rest on yesterday's achievements. So at the risk of being cast in the role of the legendary ingrate whose motto "but what have you done for me lately" has endeared him to no one, I shall touch on several areas of critical concern to the judiciary which implicate the legislative process and in which we share common responsibility for the effective administration of justice in our State.

Maryland's trial courts are divided into two levels - a District Court with essentially uniform but limited statutory jurisdiction throughout the State, and the circuit courts of the counties and the six courts comprising the Supreme Bench of Baltimore City - the trial courts of general jurisdiction. While our Constitution permits me to utilize the judges of these courts interchangeably when required by compelling circumstances, for reasons of operational stability the judges of each court serve in the main on the court to which they were

appointed or elected. These courts require a great deal of administration to resolve the multitude of problems - some of nightmarish proportions - that daily arise in their operation. Unless and until this body sees fit in its wisdom to combine the two levels of trial courts into one unified trial court, the jurisdictional and operational differences between them will always require different methods of management and administration in the disposition of their respective caseloads.

In every legislative session, numerous bills are introduced which affect, directly or indirectly, the administration of these trial courts. Some of these measures fail to appreciate the nuts and bolts differences between levels of trial court operations, or their overall impact on the judicial system, and if enacted and implemented could seriously compromise the effective administration of justice in our State.

This year, as in past years, legislation proposing the creation of a Family Court division will be introduced for your consideration. Legislative proposals will also cross your desk this year which seek to transfer jurisdiction over juveniles from the circuit courts to the District Court, either on a statewide or on a county-by-county basis. Legislation will be introduced to gradually phase out the juvenile master system which has so long operated within our circuit courts - the masters to be replaced by judges sufficient in number to adequately administer the juvenile courts. And this year, as in earlier years, legislation will likely be proposed calling for the transfer of jurisdiction over minor traffic offenses from the District Court to a new bureaucracy of hearing officers to be created in the State Motor Vehicle Administration.

While seemingly unrelated, these proposals should not be considered separately since, pragmatically speaking, they interface with one another and their potential impact on judicial branch operations is one of considerable dimension. To illustrate the point, the Family court legislation calls for consolidation of total jurisdiction relating to family matters within one court so that all cases affecting juveniles, parents, spouses, and the family entity, will be tried in that tribunal - a principle supported by the Maryland Judicial Conference, and an idea which has much to commend it if, but only if, the considerable resources necessary to operate it effectively are made available to the court. Unless the entire judicial structure, as it now exists, is to be changed, the Family Court can only be operated as a division of the circuit court. Thus, should jurisdiction over juvenile causes, including juvenile delinquency, be transferred from the circuit courts to the District Court in all or some parts of the State, as is advocated by some, the Family Court concept is not likely to take hold in this State for it is difficult to conceptualize an effective Family Court without juveniles coming within its jurisdictional

authority. Moreover, to transfer basic jurisdiction in juvenile cases to the District Court is to effect a fundamental change in our judicial system, one which will involve enormous logistical and fiscal considerations. Those who advocate transferring jurisdiction over minor traffic offenses from the District Court to the State Motor Vehicle Administration champion their cause by asserting that District Court judges would thereby be afforded time to take over the juvenile caseload from the circuit courts. Of course, in view of the proposal to phase out the use of masters in juvenile cases, the placement of new judgeships within the system to administer juvenile justice would necessarily hinge upon this body's determination of the court - District or circuit - in which juvenile jurisdiction is to be vested.

Simple as they may appear, each of these proposals is exceedingly complex. The judiciary, in cooperation with the Maryland State Bar Association, and with the financial backing of the Governor's Commission on Law Enforcement and the Administration of Justice, has initiated a pilot Family Court project in the Circuit Court for Prince George's County. The judges of that court are most enthusiastic about the project and, through their efforts, we will be afforded a true clinical opportunity to determine if the Family Court concept can be made to work in Maryland. You may therefore wish to await the results of the Prince George's experiment with the Family Court before undertaking to enact legislation on the subject and, if so, I commend for your consideration Senate Joint Resolution No. 5, which calls for the creation of a permanent Joint Senate-House Committee on Family Justice to analyze and study the results of family oriented projects like the Family Court experiment initiated in Prince George's County.

With respect to the juvenile justice system, the Constitution of Maryland authorizes the General Assembly to grant juvenile jurisdiction to the District Court in any part of the State. While there is no question in my mind about the ability of District Court judges to properly handle juvenile matters, I think a real danger exists of eroding the effectiveness of the system unless this body fully appreciates the mind-boggling ramifications of operating juvenile courts at the District Court level, either statewide or on a county-by-county basis. All standard setting groups favor placing jurisdiction over juveniles on the highest trial court level and virtually all Maryland judges concur in this judgment. That the juvenile court operates so successfully at the District Court level in Montgomery County is not reason in itself to conclude that that success will be duplicated in other parts of the State by the simple expedient of transferring jurisdiction over juveniles from the circuit courts to the District Court. The juvenile court in Montgomery County has operated for many years at what is now the District Court level, but it has been the very special support of the citizens of that county, the separate facilities provided, and the use of judges, rather than masters, that has brought that juvenile court into a position of preeminence. The District Court, in other parts of the State, is not nearly so well endowed. In virtually all other counties and in Baltimore City, we do not now have the physical and other facilities and resources even remotely appropriate for handling juvenile matters in the District Court, and it would be a tragic misjudgment to summarily mandate that course of action under the circumstances now existing. In Baltimore City, for example - the area of our greatest caseload for both adults and juveniles - the District Court is still largely housed in police precinct buildings. To conduct the trial of juvenile cases in such facilities would in the opinion of most judges constitute a giant step backwards in our handling of juvenile offenders. In

the last fiscal year, the District Court disposed of a total of 1,163,478 civil, criminal and traffic cases. It simply is not possible to add the 25,000 juvenile cases annually disposed of by the circuit courts to the caseload of the District Court and expect that high-volume forum can give the careful attention that such cases merit if quality justice is to be afforded to juvenile offenders.

There is general agreement that the juvenile master system must be abolished, not because the masters have not in the main performed their responsibilities in a dedicated and capable manner, but rather because the system is now outmoded, inefficient, and symbolic of a second-class status for disposing of juvenile causes which our society can no longer tolerate. The short of it is that Maryland has never had a judicially administered statewide juvenile court system because in many places juvenile masters, rather than judges, have been operating these courts. The Maryland Judicial Conference has proposed legislation for your consideration to phase out the use of juvenile masters over a four-year period and for their gradual replacement by circuit court judges, beginning with five in 1977 and increasing to 15 by 1980. The judges of Maryland are most hopeful that you will look with favor upon this proposal for it is through the juvenile courts, and their supporting agencies, that we can best shape the future destiny of our troubled young people.

As to the administrative adjudication of minor motor vehicle cases, that movement had its beginnings in New York State in 1969. In the seven years that have ensued, only two other states in the country have followed New York's lead. Judicial branch representatives have been to New York to evaluate the system in operation and have been impressed, not by administrative agency disposition of these cases, but rather by the computer techniques utilized in processing the cases. As a result of our observations, and with funds obtained under the National Highway Safety Act, the judiciary has been engaged for more than a year in efforts to establish a comparable statewide computer network for processing the 700,000 motor vehicle citations which flow through the District Court each year. A pilot project will soon be underway in Montgomery County and we are most enthusiastic that it will be successful and expanded into full statewide use within the next 18 months.

The vast majority of the judges of the District Court believe that the public interest in motor vehicle safety is better served by adjudication of minor traffic offenses by judges rather than administrative agency hearing officers. They espouse the view that any field of human endeavor which costs the lives of 60,000 Americans each year, with hundreds of thousands of others being maimed or crippled, is deserving of the time, talents and efforts of the judicial system - a conclusion with which both the American Bar Association and the Maryland State Bar Association are in agreement. The District Court now tries almost 200,000 contested motor vehicle cases each year, with 90% of the cases being tried in less than 30 days from the violation date, and the vast majority of the remainder being disposed of within an additional 30 days. In view of these facts, whether administrative adjudication of these minor traffic offenses is truly in the public interest deserves your most careful appraisal.

Turning now to other matters, as a result of two constitutional amendments proposed by this body, and approved by the people this past November, our judicial system has been greatly strengthened. The first amendment removed appellate judges from the political election process in favor of senatorial confirmation of the Governor's appointee,

and a later non-competitive retention election based solely on the judge's judicial record. The second amendment permits the Courts of Appeals to recall former judges to service on a temporary basis to meet critical judicial manpower needs. That amendment calls for statutory implementation by way of imposing criteria to govern the temporary use of such judges. I am hopeful that you will not require former judges to have served more than five years on the bench as a condition precedent to their eligibility. I am hopeful that you will not consider age as a factor in drawing eligibility criteria, but will permit the Court a large measure of discretion in the selection process.

We recognize that the authorized use of former judges is not a substitute for new judgeships and, furthermore, that new judgeships should not be created except where the public need positively demands it. In addition to the new judgeships called for by the proposal to phase out the juvenile master system, we will support legislation for one additional judgeship on the Court of Special Appeals. Since its inception 10 years ago this month, that Court has proved itself to be one of uncommon capability and under the firm hand of its new Chief Judge, Richard P. Gilbert, continues to draw praise from all quarters of the legal profession. Last year, through the budgetary process, you strengthened the operational capabilities of the Court by providing funds necessary to add a small professional staff to assist in the management of its extremely heavy caseload. The Court, which was originally programmed for 15 judges, now has 12. It hears cases in three-judge panels in a volume so great that in an average month it will entertain almost half as many cases as appear on the docket of the State's highest Court in a year. To be precise, the Court of Special Appeals disposed of 1,384 docketed appeals in its last annual term - far in excess of the per judge national average for intermediate appellate courts. To keep abreast of its calendar, however, the Court has had to utilize judges from all levels of our court system, and the time has come, in my opinion, for the addition of a thirteenth judge to that beleaguered Court.

In his State of the State Message delivered last week, Governor Mandel indicated that he will propose, as an administration measure, a constitutional amendment to consolidate the six courts comprising the Supreme Bench of Baltimore City into one circuit court, with but one elected Clerk. No judicial reform is more urgently needed. It was advocated last year by the Governor's Task Force on Circuit Court Unification, and has the firm backing of all segments of the legal profession. It is the first step in the broader design for the total unification of the circuit courts into one unified trial court of general jurisdiction, funded and administered entirely by the State. In this connection, on October 14, 1976, the Governor's Commission on Law Enforcement and the Administration of Justice adopted a comprehensive statement of standards and goals for the courts of Maryland, the basic thrust of which was that the State courts "should be organized into a unified judicial system financed (entirely) by the State." It is only at the Supreme Bench/circuit court level that unification has not been achieved.

To move to full unification and full State funding of these courts would presently cost from 17 to 18 million dollars. The State's assumption of this funding burden would be consistent with the general perception that these courts are State courts, would remove substantial financial burdens from the political subdivisions, especially the larger ones, and would permit more effective administration while at the same time not stifling local initiative or true judicial independence. Many of our sister states have moved in the direction of full court unification in

recent years, perhaps the most recent being New York, which achieved this objective in the spring of 1976.

I foresee a process of funding which could well be phased in over a period of years, thus lessening the immediate impact on the State budget. But in my judgment the process of picking up portions of local funding of the circuit court system should not be done piecemeal; it should be part of an overall plan and commitment for eventual full State funding.

For this session, however, we seek only consolidation of the six courts of the Supreme Bench of Baltimore City - a proposal which, whether or not you agree that a need exists for total circuit court unification, merits passage on its own since it brings enormous advantages to the judicial system and is without fiscal impact upon the State budget.

Turning to another matter, Senate Joint Resolution No. 27, passed last year, created a Task Force on Crime, its mission being to make a comprehensive study and analysis of the criminal justice system and to develop meaningful legislative recommendations to improve the system. While that Task Force has met, this body need not await its final report to focus on problems deserving of your prompt attention.

Between 1972 and 1976, the criminal caseload in the circuit courts of the counties and the Criminal Court of Baltimore shot up 64% while the District Court experienced a similar increase of 46%. This tidal wave of criminal cases is real; it will not recede; and it demands a realistic - not a cosmetic - response from this body.

Those who break our criminal laws must come to expect swift arrest, prompt trial, and certain punishment. But that goal will never be attained as long as the criminal justice system is afforded a "no priority" status in the appropriation of public funds; as long as prosecutors and public defenders are lopped off public payrolls without regard to the consequences; as long as those offenders deserving punishment in penal institutions cannot be incarcerated because there are no facilities for them; as long as there are inadequate personnel to supervise those offenders placed by judges on supervised probation; as long as too few additional courtrooms are being erected to accommodate the ever-spiraling flood of cases that inundate our old and frequently decrepit courthouses; and as long as political interests, rather than the public interest, are permitted to determine the course the criminal justice system will follow in our State. The public cry for swift and fair justice is not met by passing laws insulating bail bondsmen from financial penalty when they fail to meet their obligation to produce a defendant for trial. It is not met by mandating that trials of criminal offenders be accelerated, while making no provision for the human and other resources needed to achieve that laudable end. Nor is the public interest met by mandating that presentence reports be obtained by judges prior to sentencing, while making no provision for probation officers sufficient in number to carry out that desirable objective. In other words, more than high-sounding rhetoric is required to bring reform to the system and we, the judges of Maryland, support with all our strength the proposals now before you to increase correctional facilities and strengthen the capabilities of the Division of Parole and Probation.

Like you, I fully appreciate the heavy demands on the public treasury, but there are constructive measures that can be taken without implicating the budgetary process. The Court of Appeals will adopt, effective July 1, 1977, a comprehensive new set of criminal rules - over three years in the making - that will streamline practice and procedure in our trial courts. Matters of substance affecting the criminal justice

system are, however, mainly the province of the legislature. And the stark truth is that there are areas within the system, as it operates under existing laws, that are as easily manipulated by persons accused of crime as a gumball machine is by a master safecracker. It would be very much in the public interest if a small, permanent, working committee consisting of legislators truly knowledgeable in the workings of the criminal justice system could be created to join with equally knowledgeable veteran judges, prosecutors, defense counsel, and other members of the criminal justice community to develop proposals for a badly needed legislative overhaul of our laws in this critical area.

One example of a matter fertile for your consideration is that of delay in the ultimate disposition of criminal cases - long one of the central ills which plagues our criminal justice system. Some delay, of course, is unavoidable but much of it is contrived by or on behalf of those in whose interest delay is a positive weapon to postpone or wholly avoid accounting for their

Symbolic of the stagnation which exists in our laws and which fosters delay in the ultimate disposition of criminal cases at unwarranted public expense, and at the same time causes great hardship to victims of crime and those called to appear in court as witnesses, is the so-called de novo appeal in criminal cases from the District Court to the trial courts of general jurisdiction. In these cases, an accused person is found guilty in the District Court and enters an appeal. The guilty verdict is, in effect, expunged and he is given a second full-blown trial, this time before a jury if he wishes, and the victim and all witnesses are required to appear again and go through the entire process

a second time. This happened over 5,000 times last year and that figure promises to be exceeded this year. No wonder the public at large, and particularly the victims of crime, become exasperated with a system which affords, for no sensible reason, two separate and complete trials to an accused person. Moreover, to continue this archaic practice is demeaning to the highly qualified judges of the District Court. Now that more effective recording equipment is in use in the District Court, I urge this body to bleed a little for the victims of crime by abolishing the trial de novo, as Senate Bill 97 now before you proposes, and substitute in its place appeals on the record.

Let me conclude on this note. Last year, I attended a conference in St. Paul called by the Chief Justice of the United States, which was labeled "The National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice." The purpose of the conference was to consider the present weaknesses in our judicial system, to take a hard look at how our system of justice is working, and to begin an informed, nonpolitical process of inquiry into needed changes. I urge this body to question long-existing practices required by our statutes and Constitution which govern the operations of the judicial branch of government.

The Annual Report of the Administrative Office of the Courts, under the peerless direction of the State Court Administrator, Mr. William H. Adkins, II, will be delivered to your desks this afternoon, and I am hopeful that you will carefully review it. On behalf of my fellow judges, and all personnel of the judicial department, I again thank you for the kind invitation to appear before you today.

1977 LEGISLATION AFFECTING THE COURTS

At each session of the General Assembly, a large amount of legislation is considered that affects the courts in one fashion or another. Space limitations make it impossible to discuss all of these legislative matters in this *Report*. We list below a few of the more important items. Measures affecting only a single jurisdiction have been omitted.

An asterisk (*) denotes a bill proposed or supported by the Judicial Conference, one of its committees, or some other unit within the judicial branch of government.

A. Bills Enacted.

1. Court Organization and Structure.

* Chapter 352 (HB 297) adds a 13th judge to the Court of Special Appeals, thereby helping to relieve the burdens on that extremely busy court.

* Chapter 789 (HB 820) adds two judges to the Circuit Court for Prince George's County, effective January 1, 1978, with the proviso that juvenile masters be phased out in that court in July 1978. The Juvenile and Family Law and Procedure Committee of the Judicial Conference had proposed such a program State-wide (see SB 802, etc. under B.4 below). The proposal was accepted only as to Prince George's County in the 1977 session.

Chapter 802 (HB 1123) adds an additional circuit court judge in Howard County. Although the projections and statistics compiled by the Administrative Office of the Courts did not fully support a need for an additional judge in this county in Fiscal 1978, the question was a very close one and an additional judge would have been required by Fiscal 1979. In addition, real caseload backlogs had developed in Howard County and the additional judgeship should help clear these up.

* Chapter 978 (HB 1889) adds an additional circuit court judge in Carroll County. This additional judgeship was clearly overdue in that busy single-judge circuit court.

Note: It should be observed that under legislation passed in 1976 but not effective until July 1, 1977, an additional circuit court judgeship was also added in Wicomico County.

2. Court Administration.

* Chapter 899 (SB 612) implements a Constitutional amendment ratified by the voters in November 1976 by spelling out procedures and limitations in connection with the temporary use of former judges. This legislation will enable the Court of Appeals and its Chief Judge to make use of a pool of experienced judicial manpower to supplement the work of the full-time judges of the State and thus to move cases more expeditiously.

* Chapter 191 (SB 611) authorizes the addition of a \$10 charge when a bad check is given in payment of a fine or costs in the District Court.

Chapter 111 (HB 168) increases the Criminal Injuries Compensation Fund assessment from \$5 to \$10, where that assessment is required to be made.

3. Civil Law and Procedure.

* Chapter 297 (SB 98) provides new authority for the District Court to act in housing or similar code enforcement cases. Although the bill is State-wide in terms, it will probably be most useful in Baltimore City.

Chapter 271 (HB 1480) has the effect of modifying Maryland Rule 625 to add a new category of circumstances under which a court may exercise revisory power over an enrolled judgment. The Rule 625 grounds are fraud, mistake,

or irregularity. Chapter 271 adds authorization to exercise revisory power in the case of "failure of an employee of the court of the Clerk's office to perform a duty required by statute or rule." This legislation was in part motivated by *Maryland Metals, Inc. v. Harbaugh*, 33 Md. App. 570 (1976).

* Chapter 311 (SB 281) responds to the problem noted in *Bryant and Horne v. Department of Public Safety*, 33 Md. App. 357 (1976). In that case, it was observed that the lengthy review process in cases involving the Inmate Grievance Commission permitted an appeal as of right to the Court of Special Appeals from a final judgment of a circuit court pursuant to the Administrative Procedure Act. This holding carried with it a potential of further adding to the heavy workload of the Court of Special Appeals. Chapter 311 addresses this problem by making further "judicial review of a final judgment of the circuit court of a county or the Baltimore City court, as the case may be, (in a Inmate Grievance Commission case) ... by application for leave to appeal to the Court of Special Appeals" instead of by way of an appeal as of right under the APA.

Chapter 799 (HB 1059). This legislation amends Article 41, §206A(c) to provide "civil commitment determinations made by the Department of Health and Mental Hygiene hearing officers pursuant to departmental regulations governing involuntary admissions to mental health facilities under the jurisdiction of or licensed by the Department and departmental regulations governing involuntary admissions to mental retardation facilities under the jurisdiction of or licensed by the Department shall be considered final decisions of the Department for purposes of judicial review under this article." This Act appears to make the hearing officer's decision directly appealable to the court without the necessity of any action by the Board of Review of the Department of Health and Mental Hygiene; compare *Commission of Medical Discipline of Maryland v. Bendler*, ____ Md. ____, 373 A. 2d 1232 (1977).

Chapter 538 (HB 1271). During Fiscal 1977, there was considerable confusion over jurisdictional problems involving actions for the return or forfeiture of contraband or other property seized in connection with gambling or narcotic cases. This bill clarifies jurisdictional lines as between the District Court and the circuit courts. In general, the division is similar to the general jurisdictional demarcation in civil cases. The Act took effect June 1, 1977.

Chapter 720 (SB 566) also deals with seizure of property, specifically money, currency, or cash. Procedural details are spelled out and again the jurisdictional issue was addressed.

Chapter 694 (SB 187) deals with procedure for the forfeiture of any handgun seized pursuant to Article 27, §36C.

4. Juvenile and Family Law.

* Chapter 221 (SB 874) responds to the decision of the Court of Special Appeals in *Kapneck v. Kapneck*, 31 Md. App. 410 (1976). The Act gives a court of equity sitting in an action for divorce, alimony, or annulment, in addition to the powers of the Ecclesiastical Courts of England, all the powers of a court of equity and the power to "issue an injunction to protect any party to the action from physical harm or harassment." This was an emergency bill which became effective April 29, 1977.

Chapter 489 (SB 865) gives the juvenile court jurisdiction over a motor vehicle or traffic offense and an act done in violation of any law, rule, or regulation governing the use or operation of a boat if a penalty of incarceration is authorized. If

a penalty of incarceration is not authorized, jurisdiction over such an offense remains in the District Court. An Assistant Attorney General has given the informal view that Chapter 489 prevails over any inconsistent provisions of Chapter 765 (HB 338) which also dealt with some aspects of juvenile jurisdiction.

Chapter 213 (SB 824) decriminalizes the offense of desertion of a wife.

5. Criminal Law

Chapter 108 (HB 103) adds to the felonies within the jurisdiction of the District Court the offense of embezzlement if the amount embezzled does not exceed \$500.

Chapter 692 (SB 175) rewrites the State wiretapping law in a manner substantially consistent with Federal law.

Chapter 678 (HB 907) makes major changes in the former defective delinquency law in effect eliminating this classification and the procedures formerly pertaining to it.

6. Practice of Law.

*Chapter 273 (HB 1536) increases the size of the Board of Law Examiners from 3 to 7, effective January 1, 1978.

*Chapter 621 (HB 2023) permits a lawyer admitted to practice before the highest court of another State of the United States to act as corporate house counsel in Maryland so long as his activities within the State of Maryland are limited to giving advice to the corporation by which he is employed and do not include appearance in courts or administrative agencies of this State. These attorneys are now made subject to the BV Rules dealing with lawyer discipline. The bill in part modifies the Attorney General's opinion of July 20, 1976.

*Chapter 305 (SB 239) revises and corrects the provisions of Article 10 of the Code to remove provisions superceded or made obsolete by adoption of the BV Rules by the Court of Appeals.

Chapter 155 (SB 31) amends Article 27, §14A(a) to permit an officer of a corporation to appear in the District Court on behalf of that corporation in a civil suit involving a claim not exceeding \$500. The former monetary limit was \$250.

7. Code Revision and General Matters.

Chapters 13 and 14 (HB 104 and SB 40) enacted a new Transportation Article. In this connection, particularly with respect to the Motor Vehicle Laws, Chapter 186 (SB 501) should be consulted.

* Chapter 115 (HB 352) removes or corrects a number of provisions throughout the Code made inaccurate or obsolete by adoption of the District Court system.

Chapter 681 (HB 463) proposes the amendment of a number of provisions of the Constitution that are obsolete, inaccurate, or inconsistent. This will go before the voters in November 1978.

B. Bills Failed.

1. Court Organization and Structure.

*SB's 355, 356, and 357 and HB's 695, 696, and 697 were companion administration bills proposing consolidation of the six courts of the Supreme Bench of Baltimore City. The Senate bills were referred to the Legislative Policy Committee. The House bills died in the Judiciary Committee.

2. Court Administration.

* HJR 22 proposed a study of the judicial salary structure. It passed the House of Delegates but died in the Senate Finance Committee.

3. Civil Law Procedure.

* SB 222 and HB's 1152 and 1153 proposed the discretionary consolidation of certain actions when a case involving essentially the same parties and issues was filed in the District Court and a similar case was filed in the circuit court. The Senate bill was re-referred to the Judicial Proceedings Committee. The House bills died in the Judiciary Committee.

4. Juvenile and Family Law.

* SB 802 and SJR 46 and HB 1588 and HJR 84 were companion measures proposing the phase-out of masters in juvenile cases on a State-wide basis and the addition of new circuit court judges over a period of time. SB 802 passed the Senate. The other measures died in committee. However, as noted above, a portion of this program was adopted for Prince George's County through the enactment of Chapter 789.

*HB 1532 proposed the decriminalization of non-support and the substitution of procedures like those presently used in paternity cases. This bill died in the Judiciary Committee.

* Family Court. SB 455 would have proposed the family court system for the entire State. The bill was unsuccessful, but under an LEAA grant, the circuit court for Prince George's County has established a pilot family court system.

5. Criminal Law.

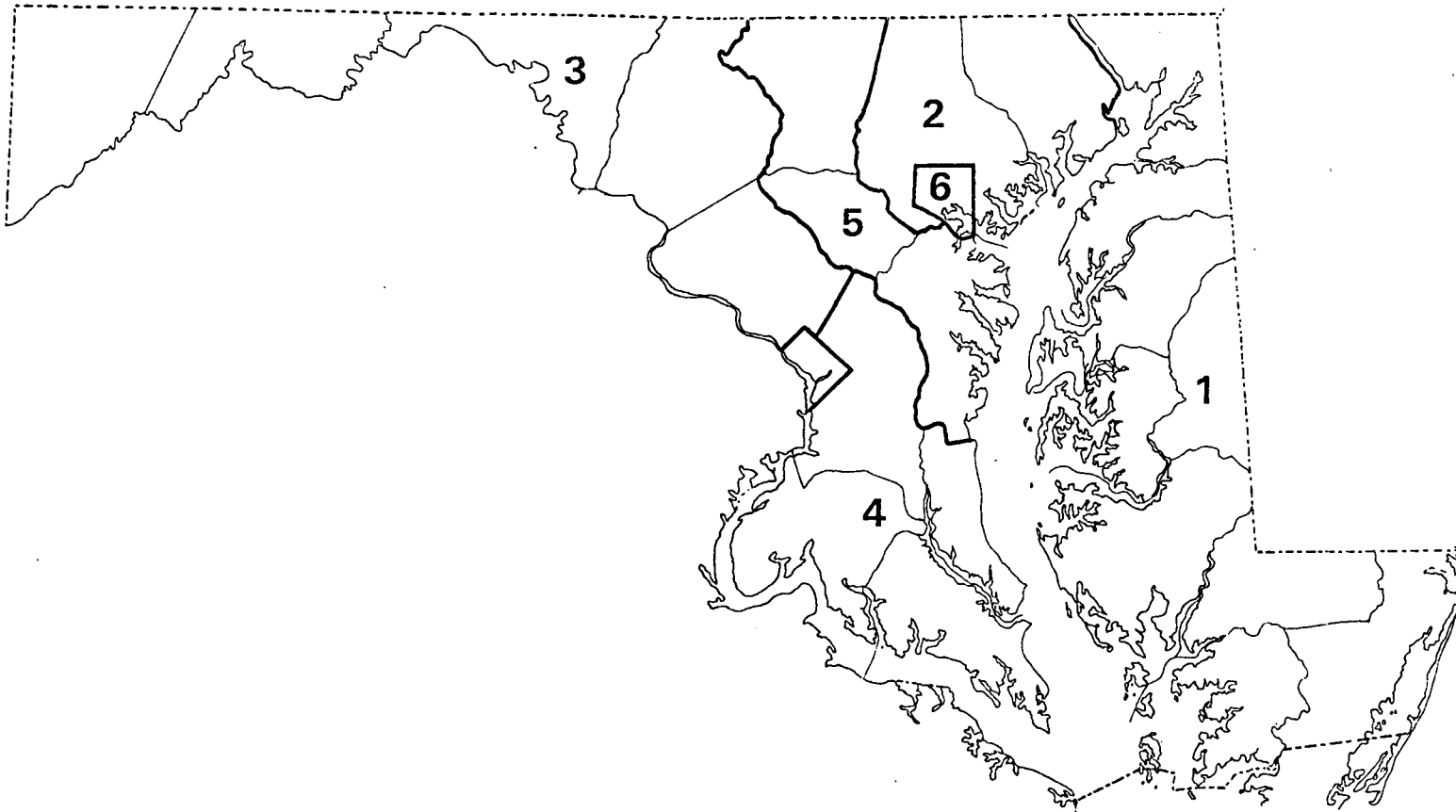
In *Thompson v. State*, 278 Md. 41 (1976) the Court of Appeals held that there is a common-law right to jury trial at the circuit court level in any criminal case; see also *Hardy v. State*, 279 Md. 489 (1977). This common-law right to jury trial in petty criminal cases had not previously been generally recognized in Maryland. There was concern that disposition of criminal cases might be materially interfered with in the circuit courts through exercise of the common law right. SB 220 and HB 1154 would have addressed this problem by limiting the right to jury trial in criminal cases to those in which the Constitution required it. However, the bills were unsuccessful.

* SB 97 would have abolished the right to trial de novo on appeal from the District Court in a criminal case. The bill passed the Senate but died in the Judiciary Committee.

* SB 226 and HB 964 would have authorized the increase of sentence following conviction in a de novo criminal appeal. As has been the case in prior legislative sessions, these bills failed.

This brief summary of 1977 legislative activity suggests that considerable success was realized in connection with measures important to the judiciary, especially those adding needed judicial manpower and authorizing the more effective use of judicial manpower. However, with respect to major court structural improvements, reforms in juvenile and family law, and efforts to expedite and make more effective the handling of criminal cases, the record is not so favorable and much remains on the agenda for future legislative sessions.

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COURT OF APPEALS

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Hon. Marvin H. Smith (1)
Hon. J. Dudley Digges (4)
Hon. Irving A. Levine (3)
Hon. John C. Eldridge (5)
Hon. Charles E. Orth, Jr. (6)
Hon. Harry A. Cole (6)

COURT OF SPECIAL APPEALS

Hon. Richard P. Gilbert, C.J. (6)
Hon. James C. Morton, Jr. (5)
Hon. Charles Awdry Thompson (1)
Hon. Charles E. Moylan, Jr. (At Large)
Hon. W. Albert Menchine (2)
Hon. Rita C. Davidson (At Large)
Hon. John P. Moore (3)
Hon. Thomas Hunter Lowe (At Large)
Hon. Ridgely P. Melvin, Jr. (At Large)
Hon. David T. Mason (At Large)
Hon. Solomon Liss (6)
Hon. Alan M. Wilner (At Large)
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 Hon. Charles E. Edmondson
 Hon. Lloyd L. Simpkins
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 Hon. James S. Getty
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 Hon. John F. McAuliffe
 Hon. Philip M. Fairbanks
 Hon. John J. Mitchell
 Hon. Richard B. Latham
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SEVENTH JUDICIAL CIRCUIT

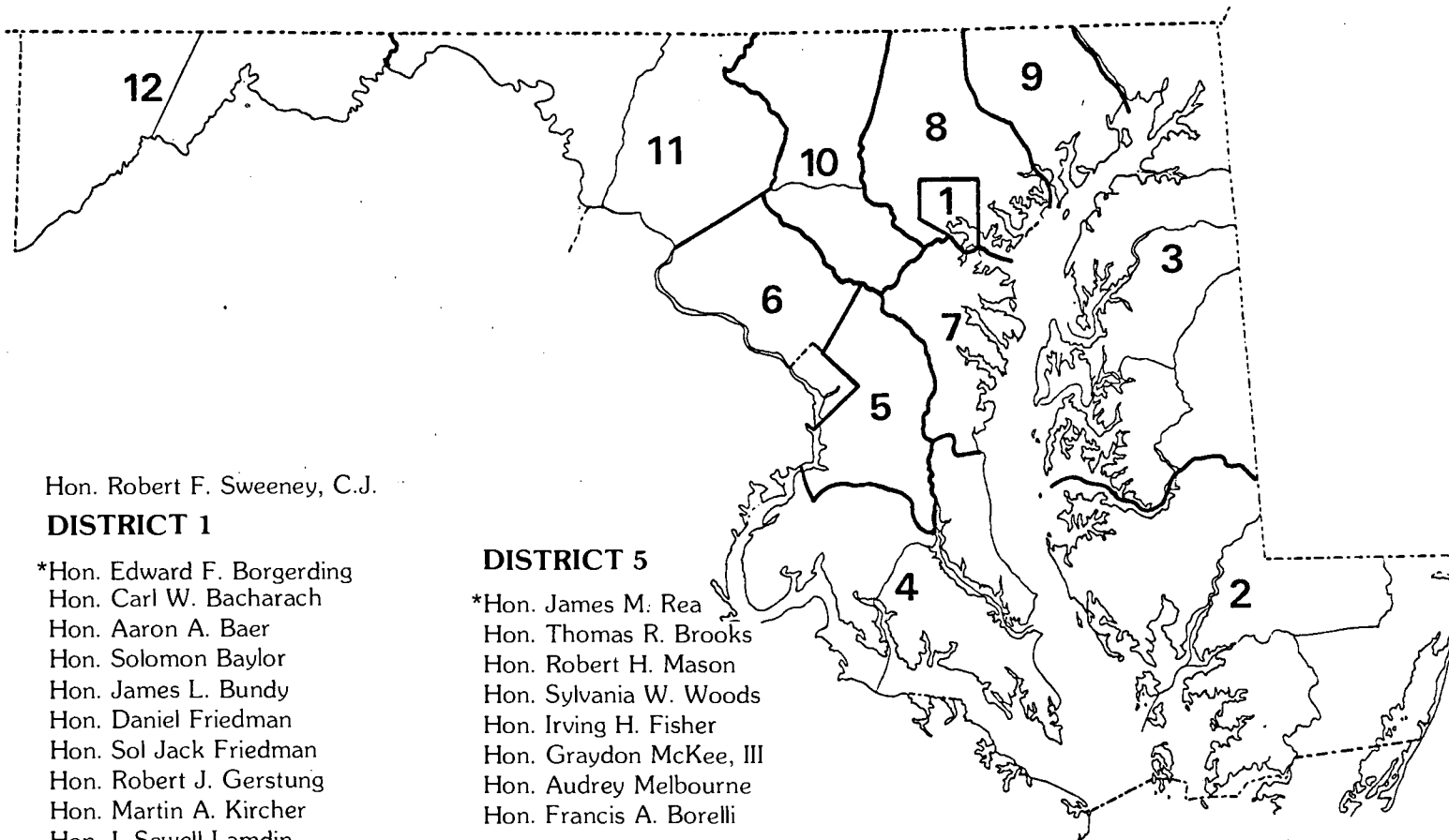
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*Circuit Administrative Judge

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*Hon. Lewis R. Jones
 Hon. Miller Bowen
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*Administrative Judge for the District